# JOURNAL

of the

# HOUSE OF REPRESENTATIVES

of the

# General Assembly

of the

# Commonwealth of Kentucky

Regular Session of 1990

## Volume II

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1990, and
in the One Hundred and Ninety-Eighth
Year of the Commonwealth

Begun on the Second Day of January, 1990, and Adjourned
Sine Die on the Thirteenth Day of April, 1990.

Paid for from state funds.

# FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This Journal represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1990.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Roll calls on motions to pass legislation have been compiled in an Appendix.

Mrs. Jean Wallace, Mrs. Delores Dearborn and Mrs. Wilda Bond prepared the 1990 House Journal. The edited copy and index in this Journal reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1990

## FRIDAY, MARCH 2, 1990

## THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Floyd Price, Bunt Grove Baptist Church, Ekron.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Noe and Keith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 1, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 158**, **SB 184**, **SB 297**, **SB 298**, **HB 321** and **HB 422**.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 238** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:04 a.m.)

**HB 238** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Introduction of Bills and Resolutions

**HB 864**, by Representative A. Jones: AN ACT relating to revenue and taxation.

**HB 865**, by Representative A. Jones: AN ACT relating to workers' compensation.

**HB 866**, by Representative A. Jones: AN ACT relating to deputy sheriffs.

**HB 867**, by Representative A. Jones: AN ACT relating to insurance and declaring an emergency.

**HB 868**, by Representative A. Jones: AN ACT relating to the Transportation Cabinet.

**HB 869**, by Representative A. Jones: AN ACT relating to sentencing in felony cases.

**HB 870**, by Representative A. Jones: AN ACT relating to motor vehicle offenses.

**HB 871**, by Representative Donnermeyer: AN ACT relating to plumbers.

**HB 872**, by Representative Donnermeyer: AN ACT relating to the Kentucky Lottery Corporation.

**HB 873**, by Representative Ballard: AN ACT relating to chiropractic school accreditation.

**HB 874**, by Representative Richards: AN ACT relating to alcoholic beverages.

**HB 875**, by Representative Richards: AN ACT relating to penalties associated with violations of law concerning controlled substances.

**HB 876**, by Representative Richards: AN ACT relating to state employees.

**HB 877**, by Representative Richards: AN ACT relating to alcohol and drug abuse.

**HB 878**, by Representative Richards: AN ACT relating to education.

**HB 879**, by Representative Richards: AN ACT relating to state employees.

**HB 880**, by Representative Lewis: AN ACT relating to paramedics.

**HB 881**, by Representative Lewis: AN ACT relating to business incentives for neighborhood assistance.

**HB 882**, by Representative Lewis: AN ACT relating to motor vehicle registration.

**HB 883**, by Representative Jensen: AN ACT relating to notaries public.

**HB 884**, by Representative Jensen: AN ACT relating to crimes and punishments.

**HB 885**, by Representatives Yates, Bronger, Northup, Gedling, Casebier, Lile, O'Brien, Burch, P. Clark, Reinhardt, Johnson, Sheehan, Callahan, J. Harper, McElroy, Stokes, Priddy, Donnermeyer, Crupper, Ward, Butler, L. Clark, Nett, Gray, Hatcher and Ackerson: AN ACT relating to funding the construction, reconstruction, and maintenance of county roads and bridges and making an appropriation and declaring an emergency.

**HB 886**, by Representative Ridley: AN ACT relating to property tax assessments and declaring an emergency.

**HB 887**, by Representative Burch: AN ACT relating to family preservation services for children at risk of out-of-home placement.

**HB 888**, by Representative Burch: AN ACT relating to services to children with emotional problems.

**HJR 173**, by Representative Richards: A JOINT RESOLUTION directing a study of alternative methods of confinement for drug offenders.

**HJR 174**, by Representative Lewis: A JOINT RESOLUTION authorizing and directing the Kentucky Department of Personnel to conduct a study of state employee salaries and benefits to see how they compare with the seven surrounding states and making an appropriations therefor.

**HCR 175**, by Representative Lewis: A CONCURRENT RESOLUTION authorizing and directing the Legislative Research Commission's Interim Joint Committee on State Government to study the feasibility and necessity for federally funded time-limited, seasonal and temporary positions in the Executive Department.

**HR 176**, by Representative Lewis: A RESOLUTION requesting the Secretary of Transportation to name the bridge on Interstate 24 connecting Marshall and Livingston Counties for the late George Luther Draffen.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 828.**

Appropriations and Revenue: **HB 817, HB 823, HB 826, HB 827, HB 848, HB 849, HB 850, HB 861, HB 862, HCR 166, SB 206.**

Banking and Insurance: **HB 818, HB 834, HB 860.**

Business Organizations and Professions: **HB 822.**

Cities: **HB 842, HB 845, SB 224.**

Economic Development and Tourism: **HB 816, HB 832, HB 854, HB 857, HB 858, SB 231.**

Education: **HB 814, HB 820, HB 824, HCR 158.**

Elections and Constitutional Amendments: **HB 821.**

Health and Welfare: **HB 838.**

Judiciary: **HB 815, HB 829, HB 843.**

Labor and Industry: **HB 839, HB 840, HB 841, HB 852.**

Natural Resources and Environmental Protection: **HB 819, HB 830, HB 847, HB 851, HB 853, HB 856.**

State Government: **HB 831, HB 833, HB 835, HB 836, HB 844, HB 846, HB 855, HB 859, HB 863.**

Transportation: **HB 825, HB 837, HJR 164, SB 227.**

### Report of Committees

The Committee on Rules reported **HB 497, HB 623, SB 88, HB 378, HB 395, HB 425, HB 599, HB 628, SB 57, SB 166, SB 188** and **SCR 20** has been posted for passage in Orders of the Day, March 5, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, March 5, 1990: **HB 522**

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 396, HB 428.**

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

State Government: **HB 263.**

### Report of Committees

The Committee on Health and Welfare reported **HB 123** with Committee Substitute and Committee Amendments attached thereto, **HB 189** with Committee Substitute attached thereto, **HB 355, HB 492** with Committee Amendments attached thereto, **HB 448** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 123,** AN ACT relating to families and children.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 199.473 is amended to read as follows:

(1) All persons other than a licensed child-placing agency or institution, the department or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Upon receipt of an application to place or receive a child the secretary shall cause an investigation to be made of the home and the background of the person or persons wishing to receive the child. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The child welfare worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case reasons for the child welfare worker's recommendation shall be given in writing. The recommendation of the child welfare worker shall then be reviewed by the secretary. Based on the report and recommendation of the child welfare worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching his decision the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological and psychiatric standpoint. If the application is refused the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the circuit court of the county in which the adoption is proposed.[~~, provided however that~~] No placement shall be disapproved on the basis of the religious, ethnic, racial or inter-faith background of the adoptive applicant, if ***the*** [~~such~~] placement is made with the consent of the parent. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

(3) No person, association or organization, other than the cabinet or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the Cabinet for Human Resources in carrying out its aid to dependent children program in accordance with KRS Chapter 205.

(4) ***If*** [~~In the event~~] a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or ***if*** [~~in the event~~] permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of district court of the county in which the child is found setting out the facts concerning the child. When ***the*** [~~such~~] petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants to receive him unless permission to do so

is granted by the secretary or ***the*** [~~such~~] action is ordered by a circuit court, the Kentucky Court of Appeals or Supreme Court of Kentucky.

(5) ***The Cabinet for Human Resources shall be paid a fee for the conduct of the investigation to be fixed by the court pursuant to a sliding income scale not to exceed fifteen dollars ($15) an hour. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special needs child as authorized in KRS 199.555.***

***(6)*** Nothing in this statute shall be construed to limit the authority of the cabinet or a licensed child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of district court or the circuit court, prior to the filing of an application to place or receive.

Section 2. KRS 199.555 is amended to read as follows:

(1) ***A "special needs child" means:***

***(a) A child which the state has determined cannot or should not be returned to the home of his parents; and***

***(b) A child which the state has first determined:***

***1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and***

***2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX*** [~~For the purpose of this section, "hard-to-place children" means those children for whom adoptive homes are difficult to find because of a physical handicap, a mental condition, or the age of the child~~].

(2) ***"State funded adoption assistance" means payment of monthly maintenance to assist in meeting the special needs of a child which was placed by the Cabinet for Human Resources. The state funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.***

***(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the special needs adoption and which are not incurred in violation of state or federal law.***

***(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, medicaid, or other third party payors or government programs.***

***(5)*** If the secretary of the Cabinet for Human Resources or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of [~~such~~] adoption, [~~then~~] funds may be paid to the adoptive parents after completion of the adoption of ***the*** [~~such~~] child if the following conditions exist:

(a) ***The child was considered a special needs child prior to the adoption;***

***(b)*** The child is committed to the Cabinet for Human Resources and the cabinet has authority to consent to the child's adoption; and

***(c)***[~~(b)~~] The adoptive parents can give suitable care to the child if a subsidy is paid.

***(6)***[~~(3)~~] Agreements for the payments of funds under this section shall be made prior to the adoption of the child. ***However, if***[~~, except where~~] the secretary for human resources or his designated representative finds that the adoption is likely to disrupt,[~~. In such situations, reimbursement for~~] extraordinary medical ***expenses*** [~~care~~] may be ***reimbursed*** [~~made,~~] contingent upon ***availability of resources*** [~~resources available~~], if the following conditions exist:

(a) The child was placed for adoption by the Cabinet for Human Resources;

(b) The child was considered ***a special needs child*** [~~"hard-to-place"~~] prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without ***reimbursement for extraordinary medical expenses*** [~~a subsidy~~].

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption ***extraordinary medical expenses*** [~~subsidy~~] is under ***the*** age ***of*** eighteen (18). ***This subsection shall have retroactive as well as prospective effect*** [~~and who is adopted prior to or after July 15, 1986~~].

***(7)***[~~(4)~~] The payments shall be out of funds appropriated to the cabinet ***and those funds collected pursuant to KRS 199.473(5) which shall be deposited in a restricted account for the purpose of subsidizing special needs adoptions,*** and shall be in accordance with regulations promulgated by the secretary. ***The*** [~~Such~~] payments shall not exceed the amount which would be paid for foster care for the child. ***Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child***[~~,~~] and may include ***reimbursement*** [~~payment~~] for extraordinary medical ***expenses*** [~~care~~]. ***Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for human resources in accord with 42 USC 673.*** However, payments under agreements entered into under subsection ***(6)*** [~~(3)~~] of this section shall be limited to reimbursement of authorized extraordinary medical ***expenses*** [~~care~~] related to problems or conditions that existed prior to the adoption.

***(8) State funded adoption assistance payments shall not be made to parents if:***

***(a) The child has attained the age of eighteen (18);***

***(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or***

***(c) The cabinet determines that the child is no longer receiving any support from the parents.***

***(9) Parents who have been receiving adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.***

***(10)***[~~(5)~~] The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Section 3. KRS 199.5954 is amended to read as follows:

(1) A child with special needs ***residing*** [~~resident~~] in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive [~~a~~] medical assistance [~~identification~~] from this state upon the filing in the [~~office of the division for medical assistance,~~] Department for Social Insurance, Cabinet for Human Resources, [~~of~~] a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the ***Department for Medicaid Services*** [~~division for medical assistance, department for social insurance~~], Cabinet for Human Resources, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The ***Department for Medicaid Services*** [~~division of medical assistance, department for social insurance~~], Cabinet for Human Resources shall consider ***recipients of medical assistance*** [~~the holder of a medical assistance identification~~] pursuant to this section as any other ***recipient of*** [~~holder of a~~] medical assistance [~~identification~~] under the laws of this state and shall process and make payment on claims on account of ***the recipient*** [~~such holder~~] in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The ***Department for Medicaid Services*** [~~division for medical assistance, department for social insurance~~], Cabinet for Human Resources shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department for Social Services, Cabinet for Human Resources for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for Human Resources shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, ***the*** [~~such~~] regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also

be subject to a fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

***(1) For the purpose of this section, unless the context requires otherwise, "federal title IV-E adoption assistance" means the payment of monthly maintenance to assist in meeting the special needs of the child and of nonrecurring adoption expenses which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to legal adoption of a special needs child and which are not incurred in violation of state or federal law.***

***(2) If the secretary of the Cabinet for Human Resources or his designated representative finds that payment of a subsidy to adoptive parents after the adoption will increase the likelihood of such adoption, funds may be paid to the adoptive parents after conclusion of the adoption if the child meets the eligibility criteria established at 42 U.S.C. 673.***

***(3) Agreements for federal title IV-E adoption assistance under this section shall be made prior to the adoption of the child.***

***(4) Payment shall be out of funds appropriated to the cabinet and federal title IV-E funds of the Social Security Act as amended (42 U.S.C. 673 et al). All payments shall be in accordance with administrative regulations promulgated by the Cabinet for Human Resources. Payments shall not exceed the amount which would be paid for foster care for the child. Nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary of the Cabinet for Human Resources or his designated representative in accordance with 42 U.S.C. 673 et al.***

Section 5. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, ***sexual abuse,*** assault or the infliction of fear of imminent physical injury, serious physical injury, ***sexual abuse*** or assault between family members; and

(2) "Family member" means a spouse, [~~including a~~] former spouse, parent, a member of an unmarried couple which has ***or allegedly has*** a child in common, ***a member of an unmarried couple currently or formerly living together as husband and wife regardless of legal status,*** child, stepchild or any other person related by consanguinity or affinity within the second degree.

Section 6. KRS 403.760 is amended to read as follows:

Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of same, shall constitute contempt of court. ***Any peace officer shall arrest the respondent without a warrant for contempt of court for any violations occurring in the peace officer's presence.***

Section 7. KRS 403.765 is amended to read as follows:

If, following the entry of an order authorized by KRS 403.740 or 403.750, the petitioner or the adverse party initiate an action in the Circuit Court under the provisions of this chapter, the orders of the Circuit Court pertaining to the same subject matter shall, upon service of same, take precedence over orders issued pursuant to KRS 403.740 or 403.750. Orders of the District Court shall remain in effect and shall be enforced in either District or Circuit Court. ***Orders issued pursuant to KRS 403.740 or 403.750 shall be enforced in either District or Circuit Court in the county of issuance or residence.***

Section 8. KRS 403.770 is amended to read as follows:

(1) The court, when issuing an emergency protective order, or when causing the issuance of a summons, shall order the omission or deletion of the petitioner's address from any documents to be made available to the public, or to the person or persons who engaged in the alleged act or acts of domestic violence and abuse.

(2) A copy of each order issued pursuant to KRS 403.740 or 403.750 shall be forwarded by the circuit clerk, within twenty-four (24) hours of its issuance to all law enforcement agencies ***and the circuit clerk*** with jurisdiction in the locale of the residence of the petitioner. Any order superseding or modifying an earlier order shall likewise be forwarded by the circuit clerk to the appropriate law enforcement agency ***and circuit clerk.***

(3) Each law enforcement agency shall maintain within its official records information as to the existence and current status of any order issued pursuant to the provisions of KRS 403.740 or 403.750, copies of which have been forwarded to the law enforcement agency in accordance with subsection (2) of this section.

(4) The official records maintained by law enforcement agencies in accordance with the provisions of subsection (3) of this section shall be confidential.

Section 9. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010.

(2) Any peace officer may arrest without warrant when he has probable cause to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that ***the*** [~~said~~] person has intentionally or wantonly caused physical injury to ***a*** [~~his~~] spouse, former spouse, parent, grandparent, child, stepchild [~~or~~], ***a member*** [~~if said person is a party~~] of an unmarried couple which has ***or allegedly has*** a child in common, ***or member of an unmarried couple currently or formerly living together as husband and wife regardless of legal status*** [~~the other party of the couple~~]. Within twelve (12) hours following apprehension [~~and booking~~] of a person arrested under this section, an officer shall [~~return to the abused person, if the abused person is an adult, and~~] request that a signed, written statement be made by the abused person***, if the abused person is an adult,*** stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

The Committee Substitute to **HB 123** is as follows:

**HB 123,** AN ACT relating to families and children.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 199.473 is amended to read as follows:

(1) All persons other than a licensed child-placing agency or institution, the department or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Upon receipt of an application to place or receive a child the secretary shall cause an investigation to be made of the home and the background of the person or persons wishing to receive the child. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The child welfare worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case reasons

for the child welfare worker's recommendation shall be given in writing. The recommendation of the child welfare worker shall then be reviewed by the secretary. Based on the report and recommendation of the child welfare worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching his decision the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological and psychiatric standpoint. If the application is refused the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the circuit court of the county in which the adoption is proposed.[~~, provided however that~~] No placement shall be disapproved on the basis of the religious, ethnic, racial or inter-faith background of the adoptive applicant, if ***the*** [~~such~~] placement is made with the consent of the parent. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

(3) No person, association or organization, other than the cabinet or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the Cabinet for Human Resources in carrying out its aid to dependent children program in accordance with KRS Chapter 205.

(4) ***If*** [~~In the event~~] a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or ***if*** [~~in the event~~] permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of district court of the county in which the child is found setting out the facts concerning the child. When ***the*** [~~such~~] petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants to receive him unless permission to do so is granted by the secretary or ***the*** [~~such~~] action is ordered by a circuit court, the Kentucky Court of Appeals or Supreme Court of Kentucky.

(5) ***The Cabinet for Human Resources shall be paid a fee for the conduct of the investigation to be fixed by the court pursuant to a sliding income scale not to exceed fifteen dollars ($15) an hour. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special needs child as authorized in KRS 199.555.***

***(6)*** Nothing in this statute shall be construed to limit the authority of the cabinet or a licensed child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of district court or the circuit court, prior to the filing of an application to place or receive.

Section 2. KRS 199.555 is amended to read as follows:

(1) ***A "special needs child" means:***

***(a) A child which the state has determined cannot or should not be returned to the home of his parents; and***

***(b) A child which the state has first determined:***

***1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and***

***2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX*** [~~For the purpose of this section, "hard-to-place children" means those children for whom adoptive homes are difficult to find because of a physical handicap, a mental condition, or the age of the child~~].

(2) ***"State funded adoption assistance" means payment of monthly maintenance to assist in meeting***

***the special needs of a child which was placed by the Cabinet for Human Resources. The state funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.***

***(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the special needs adoption and which are not incurred in violation of state or federal law.***

***(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, medicaid, or other third party payors or government programs.***

***(5)*** If the secretary of the Cabinet for Human Resources or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of [~~such~~] adoption, [~~then~~] funds may be paid to the adoptive parents after completion of the adoption of ***the*** [~~such~~] child if the following conditions exist:

(a) ***The child was considered a special needs child prior to the adoption;***

***(b)*** The child is committed to the Cabinet for Human Resources and the cabinet has authority to consent to the child's adoption; and

***(c)***[~~(b)~~] The adoptive parents can give suitable care to the child if a subsidy is paid.

***(6)***[~~(3)~~] Agreements for the payments of funds under this section shall be made prior to the adoption of the child. ***However, if***[~~, except where~~] the secretary for human resources or his designated representative finds that the adoption is likely to disrupt,[~~. In such situations, reimbursement for~~] extraordinary medical ***expenses*** [~~care~~] may be ***reimbursed*** [~~made,~~] contingent upon ***availability of resources*** [~~resources available~~], if the following conditions exist:

(a) The child was placed for adoption by the Cabinet for Human Resources;

(b) The child was considered ***a special needs child*** [~~"hard-to-place"~~] prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without ***reimbursement for extraordinary medical expenses*** [~~a subsidy~~].

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption ***extraordinary medical expenses*** [~~subsidy~~] is under ***the*** age ***of*** eighteen (18). ***This subsection shall have retroactive as well as prospective effect*** [~~and who is adopted prior to or after July 15, 1986~~].

***(7)***[~~(4)~~] The payments shall be out of funds appropriated to the cabinet ***and those funds collected pursuant to KRS 199.473(5) which shall be deposited in a restricted account for the purpose of subsidizing special needs adoptions,*** and shall be in accordance with regulations promulgated by the secretary. ***The*** [~~Such~~] payments shall not exceed the amount which would be paid for foster care for the child. ***Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child***[~~;~~] and may include ***reimbursement*** [~~payment~~] for extraordinary medical ***expenses*** [~~care~~]. ***Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for human resources in accord with 42 USC 673***. However, payments under agreements entered into under subsection ***(6)*** [~~(3)~~] of this section shall be limited to reimbursement of authorized extraordinary medical ***expenses*** [~~care~~] related to problems or conditions that existed prior to the adoption.

***(8) State funded adoption assistance payments shall not be made to parents if:***

***(a) The child has attained the age of eighteen (18);***

***(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or***

***(c) The cabinet determines that the child is no longer receiving any support from the parents.***

***(9) Parents who have been receiving adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.***

***(10)***[~~(5)~~] The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Section 3. KRS 199.5954 is amended to read as follows:

(1) A child with special needs ***residing*** [~~resident~~] in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive [~~a~~] medical assistance [~~identification~~] from this state upon the filing in the [~~office of the division for medical assistance,~~] Department for Social Insurance, Cabinet for Human Resources, [~~of~~] a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the ***Department for Medicaid Services*** [~~division for medical assistance, department for social insurance~~], Cabinet for Human Resources, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The ***Department for Medicaid Services*** [~~division of medical assistance, department for social insurance~~], Cabinet for Human Resources shall consider ***recipients of medical assistance*** [~~the holder of a medical assistance identification~~] pursuant to this section as any other ***recipient of*** [~~holder of a~~] medical assistance [~~identification~~] under the laws of this state and shall process and make payment on claims on account of ***the recipient*** [~~such holder~~] in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The ***Department for Medicaid Services*** [~~division for medical assistance, department for social insurance~~], Cabinet for Human Resources shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department for Social Services, Cabinet for Human Resources for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for Human Resources shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, ***the*** [~~such~~] regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

***(1) For the purpose of this section, unless the context requires otherwise, "federal title IV-E adoption assistance" means the payment of monthly maintenance to assist in meeting the special needs of the child and of nonrecurring adoption expenses which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to legal adoption of a special needs child and which are not incurred in violation of state or federal law.***

***(2) If the secretary of the Cabinet for Human Resources or his designated representative finds that payment of a subsidy to adoptive parents after the adoption will increase the likelihood of such adoption, funds may be paid to the adoptive parents after conclusion of the adoption if the child meets the eligibility criteria established at 42 U.S.C. 673.***

***(3) Agreements for federal title IV-E adoption assistance under this section shall be made prior to the adoption of the child.***

***(4) Payment shall be out of funds appropriated to the cabinet and federal title IV-E funds of the Social Security Act as amended (42 U.S.C. 673 et al). All payments shall be in accordance with administrative regulations promulgated by the Cabinet for Human Resources. Payments shall not exceed the amount which would be paid for foster care for the child. Nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary of the Cabinet for Human Resources or his designated representative in accordance with 42 U.S.C. 673 et al.***

The Committee Amendment No. 1 to **HB 123** is as follows:

Amend printed copy of HCS for **HB 123** on page 8, line 17, by inserting after the word "***eighteen (18)***" the following:

"***, except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21)***".

The Committee Amendment No. 2 to **HB 123** is as follows:

Amend printed copy of HCS for **HB 123** on page 1, line 7, by inserting after the word "child", the words "***, together with the fee required pursuant to subsection (5) of this section,***";

And on page 4, line 5, by inserting after the word "***The***" the words "***Secretary of the***";

And on page 4, line 5, by inserting after the words "***paid a***" the words "***non-refundable***";

And on page 4, line 6, by inserting after the word "***fee***" the words "***of one hundred fifty dollars ($150) upon the filing of the written application for permission to place or receive a child***";

And on page 4, lines 6, by deleting the words "***for the conduct of the investigation to be fixed by***";

And on page 4, by deleting line 7 in its entirety;

And on page 4, line 8, by deleting the following words "***fifteen dollars ($15) an hour***".

**HB 189**, AN ACT relating to public health.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for Human Resources shall appoint ***from a list of nominees,*** three (3) qualified licensed and practicing physicians***;*** [~~and~~] one (1) qualified licensed and practicing dentist***;*** [~~and~~] one (1) qualified ***licensed and*** practicing registered nurse***;*** [~~and~~] one (1) qualified licensed and practicing veterinarian***;*** [~~and~~] one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. ***The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, county health department staff, county medical society (for physicians), county dental society (for dentists), county nursing association (for nurses), and county veterinarian association (for veterinarians). If*** [~~In the event~~] a county does not have three (3) qualified licensed and practicing physicians or one (1) qualified licensed and practicing dentist or one (1) qualified and licensed practicing registered nurse or one (1) qualified licensed and practicing veterinarian [~~or one (1) lay person knowledgeable in consumer affairs~~] residing therein, the secretary of the Cabinet for Human Resources may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years ***with physicians, dentists and fiscal court appointees appointed in even numbered years and nurses, veterinarians and lay appointees appointed in odd numbered years for terms*** from the date of their appointment, ***beginning on or after January 1, 1991*** and until their successors are appointed ***except the terms of the first appointment shall be such that all physician and fiscal court appointee terms beginning on January 1, 1991 shall expire on December 31, 1991, dentist terms beginning on August 1, 1990 shall expire on December 31, 1991, nurse appointments beginning on August 1, 1990 shall expire on December 31, 1992, veterinarian and lay appointments beginning on October 1, 1990 shall expire on December 31, 1992.*** The members of the board shall receive no compensation for their services.

(2) The secretary ***shall remove any member, other than the county judge/executive or fiscal court appointee, who misses three (3) consecutive scheduled meetings and*** may remove any board member he appoints as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 2. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for Human Resources;

(b) Hold a regular meeting at least once every three (3) months***, except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months,*** and such other special or regular meetings as may be desired and keep full minutes of all the proceedings in a book provided for this purpose;

(c) Adopt, except as otherwise provided by law, such rules and regulations not in conflict with the rules and regulations of the Cabinet for Human Resources, as may be necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

(d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, where the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of;

(f) Perform all other functions necessary to carry out the provisions of law and the rules and regulations adopted pursuant thereto, relating to local boards of health;

(2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 3. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class or an urban-county government, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per 15,000 population or fraction thereof, which shall include the mayor of each city of the second class as an ex officio voting member ***except that in no event shall the number of members from any one (1) county exceed seven (7) in number.***

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the ***county or city-county boards of health from the membership of each county or city-county board of health*** [~~secretary of the Cabinet for Human Resources from lists submitted to him upon his request by the fiscal courts of each county in the district. Said list shall be submitted to the secretary within seventy-five (75) days of receipt of his request. In the event a fiscal court fails to respond within the prescribed seventy-five (75) day period, the county judge/executive of said county shall be authorized to compile and submit, within ten (10) days, his county's nominations to the secretary. In the event the county judge/executive does not respond within the prescribed time, then the secretary shall be authorized to compile, or have compiled, the nominations for such county~~].

(a) ***The secretary of the Cabinet for Human Resources shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring*** [~~The list of nominations submitted to the secretary pursuant to this subsection shall include two (2) nominations from each of the following:~~

~~1. The fiscal court of each county;~~

~~2. The county board of health of each county;~~

~~3. The county medical society;~~

~~4. The county dental society;~~

~~5. The district nursing association;~~

~~6. Veterinarians from the county, when available~~].

(b) ***Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county.*** At least ***two (2), or twenty-five percent (25%), whichever is less*** [~~twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%)~~] of the appointed members of the ***district*** board shall be doctors of medicine or osteopathy licensed in the Commonwealth[~~, and there shall be at least one (1) licensed registered nurse, one (1) dentist and one (1) veterinarian, when available among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives~~].

***(c) The chairman of the county or city-county board of health shall inform the secretary within forty-five (45) days of receipt of the notification under subsection (a) of this section of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the secretary has certified their eligibility to serve on the board.***

(3) ***If*** [~~In the event~~] a vacancy exists upon the district board, ***the*** [~~said~~] vacancy shall be filled in a manner consistent with subsection (2) of this section with the ***appointed member*** [~~nominee~~] to fill the vacant seat coming from the county in which the vacancy occurs and the ***appointed member*** [~~nominee~~] resides. ***If a member's term on the county board of health expires or the member cannot complete the term on the county board, the member's seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.***

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on ***December 31*** [~~June 30~~] or until their successors are appointed; provided, however, that the terms of the first appointments shall be staggered ***so*** [~~in such a manner~~] that ***members whose terms expire on June 30, 1990 shall be replaced with appointed members whose terms expire on December 31, 1992. Members whose terms expire on June 30, 1991 shall be replaced with appointed members whose terms expire on December 31, 1993*** [~~not less than one-half (1/2) the members shall be appointed for a term of one (1) year or until their successors are appointed and qualify. No appointed member of a district board of health shall serve more than two (2) consecutive terms of office~~].

***(5) The secretary shall remove any appointed member who misses three (3) consecutive board meetings.***

The Committee Substitute to **HB 189** is as follows:

**HB 189,** AN ACT relating to public health.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for Human Resources shall appoint ***from a list of nominees,*** three (3) qualified licensed and practicing physicians; [~~and~~] one (1) qualified licensed and practicing dentist; [~~and~~] one (1) qualified ***licensed and*** practicing registered nurse; ***one (1) licensed engineer engaged in the practice of civil or sanitary engineering; one (1) qualified licensed and practicing optometrist;*** [~~and~~] one (1) qualified licensed and practicing veterinarian; [~~and~~] one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. ***The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, county health department staff, county medical society (for physicians), county dental society (for dentists), county nursing association (for nurses), county engineering association (for engineers), county optometric association (for optometrists), and county veterinarian association (for veterinarians). If*** [~~In the event~~] a county does not have three (3) qualified licensed and practicing physicians or one (1) qualified licensed and practicing dentist or one (1) qualified and licensed practicing registered nurse ***one (1) qualified and licensed practicing civil or sanitary engineer or one (1) qualified licensed and practicing optometrist,*** or one (1) qualified licensed and practicing veterinarian [~~or one (1) lay person knowledgeable in consumer affairs~~] residing therein, the secretary of the Cabinet for Human Resources may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years ***with physicians, dentists and fiscal court appointees appointed in even numbered years and nurses, engineers, optometrists, veterinarians and lay appointees appointed in odd numbered years for terms*** from the date of their appointment, ***beginning on or after January 1, 1991*** and until their successors are appointed ***except the terms of the first appointment shall be such that all physician and fiscal court appointee terms beginning on January 1, 1991 shall expire on December 31, 1991, dentist terms beginning on August 1, 1990 shall expire on December 31, 1991, nurse, engineer and optometrist appointments beginning on August 1, 1990 shall expire on December 31, 1992, veterinarian and lay appointments beginning on October 1, 1990 shall expire on December 31, 1992.*** The members of the board shall receive no compensation for their services.

(2) The secretary ***shall remove any member, other than the county judge/executive or fiscal court appointee, who misses three (3) consecutive scheduled meetings and*** may remove any board member he appoints as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 2. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for Human Resources;

(b) Hold a regular meeting at least once every three (3) months, ***except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months,*** and such other special or regular meetings as may be desired and keep full minutes of all the proceedings in a book provided for this purpose;

(c) Adopt, except as otherwise provided by law, such rules and regulations not in conflict with the rules and regulations of the Cabinet for Human Resources, as may be necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

(d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, where the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of;

(f) Perform all other functions necessary to carry out the provisions of law and the rules and regulations adopted pursuant thereto, relating to local boards of health;

(2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 3. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class or an urban-county government, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per 15,000 population or fraction thereof, which shall include the mayor of each city of the second class as an ex officio voting member. ***The total number of members from any county in a district shall not exceed seven (7) with the exception of those counties that prior to the effective date of this Act had more than seven (7) members. The board membership for those counties with more than seven (7) members shall be limited to the total number of members serving prior to the effective date of this Act.***

(2) All members except for the county judges/executive and the mayors of second class cities ***and the licensed and practicing optometrist*** shall be appointed by the ***county or city-county boards of health from the membership of each county or city-county board of health*** [~~secretary of the Cabinet for Human Resources from lists submitted to him upon his request by the fiscal courts of each county in the district. Said list shall be submitted to the secretary within seventy-five (75) days of receipt of his request. In the event a fiscal court fails to respond within the prescribed seventy-five (75) day period, the county judge/executive of said county shall be authorized to compile and submit, within ten (10) days, his county's nominations to the secretary. In the event the county judge/executive does not respond within the prescribed time, then the secretary shall be authorized to compile, or have compiled, the nominations for such county~~].

(a) ***The secretary of the Cabinet for Human Resources shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring*** [~~The list of nominations submitted to the secretary pursuant to this subsection shall include two (2) nominations from each of the following:~~

~~1. The fiscal court of each county;~~

~~2. The county board of health of each county;~~

~~3. The county medical society;~~

~~4. The county dental society;~~

~~5. The district nursing association;~~

~~6. Veterinarians from the county, when available~~].

(b) ***Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county.*** At least ***two (2), or twenty-five percent (25%), whichever is less*** [~~twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%)~~] of the appointed members of the ***district*** board shall be doctors of medicine or osteopathy licensed in the Commonwealth[~~, and there shall be at least one (1) licensed registered nurse, one (1) dentist and one (1) veterinarian, when available among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives~~].

***(c) The chairman of the county or city-county board of health shall inform the secretary within forty-***

***five (45) days of receipt of the notification under subsection (a) of this section of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the secretary has certified their eligibility to serve on the board.***

(3) ***If*** [~~In the event~~] a vacancy exists upon the district board, ***the*** [~~said~~] vacancy shall be filled in a manner consistent with subsection (2) of this section with the ***appointed member*** [~~nominee~~] to fill the vacant seat coming from the county in which the vacancy occurs and the ***appointed member*** [~~nominee~~] resides. ***If a member's term on the county board of health expires or the member cannot complete the term on the county board, the member's seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.***

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on ***December 31*** [~~June 30~~] or until their successors are appointed; provided, however, that the terms of the first appointments shall be staggered ***so*** [~~in such a manner~~] that ***members whose terms expire on June 30, 1990 shall be replaced with appointed members whose terms expire on December 31, 1992. Members whose terms expire on June 30, 1991 shall be replaced with appointed members whose terms expire on December 31, 1993*** [~~not less than one-half (1/2) the members shall be appointed for a term of one (1) year or until their successors are appointed and qualify. No appointed member of a district board of health shall serve more than two (2) consecutive terms of office~~].

***(5) The secretary shall remove any appointed member who misses three (3) consecutive scheduled board meetings.***

**HB 355,** AN ACT relating to the Kentucky Medical Assistance Program.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Human Resources undertakes to pay shall be designated and limited by regulations promulgated by ***the*** [~~said~~] cabinet, pursuant to the provisions ***in this section*** [~~hereof~~]. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any [~~such~~] medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of ***the*** [~~such~~] teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where ***the*** [~~such~~] aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses ***shall be*** [~~are~~] provided only to children under age twenty-one (21);

(f) ***Lifelong coverage for prescription drugs used to prevent rejection of transplanted organs as well as lifelong coverage of hospital, laboratory and physician services related to the transplant if the patient was eligible for Medicaid at the time the transplant occurred*** [~~Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent~~]; and

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where ***the*** [~~such~~] students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing ***the*** [~~such~~] services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Human Resources with respect to ***the*** [~~such~~] bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the medical assistance program, the Cabinet for Human Resources shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. Department of Labor.[~~; provided however, that~~] Medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit ***shall*** [~~are~~] not ***be*** reimbursable and shall be borne by the facility.[~~, provided however, that~~] Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Human Resources if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless ***the*** [~~such~~] payments are for services which would otherwise be necessary to the operation of the facility and ***the*** [~~such~~] services are required by regulations of the Cabinet for Human Resources. Any other [~~such~~] payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Human Resources. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators and other indirect payments made to the owner, unless ***the*** [~~such~~] payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Human Resources; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship ***shall*** [~~will~~] be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. [~~and provided however, that~~] An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The [~~rules and~~] regulations of the Cabinet for Human Resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing ***the*** [~~such~~] medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. ***It shall not be necessary that*** the amount of payments for units of services [~~need not~~] be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in ***each*** [~~such~~] locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered

by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, ***as*** [~~so~~] long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless ***the*** [~~such~~] recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under [~~such~~] a physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of ***the*** [~~such~~] payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) ***No*** [~~Every~~] long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986 shall [~~not~~] deny admission of a person to a bed certified for reimbursement under the provisions of the medical assistance program solely on the basis of the person's paying status as a medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the medical assistance program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for medicaid reimbursement. No facility may decertify a bed occupied by a medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

**HB 492,** AN ACT relating to health care information.

WHEREAS, it is in the interest of all Kentuckians that they have available to them affordable, high quality health care services; and

WHEREAS, enhanced competition between health care providers may provide one means to achieve affordable, high quality services, but only if consumers have access to sufficient information to allow them to make meaningful choices about health care matters; and

WHEREAS, it is in the public interest to provide for a uniform system of information to enable consumers to compare the price and quality of frequently used health care services; and

WHEREAS, such an information system can best be developed, tested and refined by implementing it in areas in which there is a high volume of services provided by a significant number of competing health care providers;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***For purposes of this chapter, unless the context requires otherwise:***

***(1) "Aggregate charge" means the total of all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services, as ordinarily reported on the uniform health insurance claim form prescribed pursuant to KRS 304.14-135, prior to any adjustment for bad debts, charity, contractual allowances, administrative or courtesy discounts or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or facility-based physicians shall be excluded from the calculation of aggregate charge.***

***(2) "Ambulatory facility" means a facility, not part of a hospital, licensed pursuant to KRS Chapter 216B under whatever nomenclature, which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization, such as an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or specialized medical technology service. This term shall not include private offices and clinics of physicians or other practitioners of the healing arts which do not hold a facility license pursuant to KRS Chapter 216B.***

***(3) "Cabinet" means the Public Protection and Regulation Cabinet.***

*(4) "Council" means the Health Care Information Council.*

*(5) "Covered county" means a county in which there are more than three thousand (3,000) licensed hospital beds.*

*(6) "Department" means the Department of Health Care Consumer Information within the cabinet.*

*(7) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either a hospital, psychiatric hospital, rehabilitation hospital or chemical dependency treatment facility. It shall exclude facilities owned by the federal or state government.*

*(8) "Major ambulatory procedures" means those surgical, medical, radiological, diagnostic or therapeutic procedures designated by the department by administrative regulation as those pertaining to which reports will be required. Major ambulatory procedures shall include procedures which are customarily provided in hospital or other licensed facilities, and which require special facilities, such as operating rooms, or special equipment, such as fluoroscopic equipment, computed tomographic scanners, magnetic resonance imagers, mammography or ultrasound equipment and the like.*

*(9) "Quality" means the extent to which a provider renders care that, within the capabilities of modern medicine, obtains for patients medically acceptable health outcomes and prognoses, adjusted for severity of illness.*

SECTION 2. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*There is hereby created a Department of Health Care Consumer Information within the cabinet. The secretary of the cabinet shall appoint a commissioner of the department, charged with the administration of this chapter, and shall provide for sufficient department staff, qualified through training or experience, to carry out the responsibilities of the department. The commissioner shall have obtained at least a bachelor's degree from an accredited college and shall have training or experience in health care administration or finance, health care accounting or other related field.*

SECTION 3. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*(1) The department shall:*

*(a) Beginning no later than January 1, 1991, require every hospital and ambulatory facility in a covered county to report, on a periodic basis, information regarding the price and quality of frequently treated medical conditions and frequently used health care services;*

*(b) Establish by administrative regulation, at least the following:*

*1. The timetable for filing information required under this chapter;*

*2. A list of frequently treated medical conditions, frequently used health care services and major ambulatory procedures pertaining to which the department will prepare and publish comparative price and quality information;*

*3. A methodology to analyze and disseminate comparative price information for each hospital and ambulatory facility in a covered county, which methodology shall include at a minimum:*

*(a) Diagnosis-specific or procedure-specific comparisons, calculated on an average aggregate charge basis, controlled for severity of illness; and*

*(b) If a facility has entered into any arrangement with any payor for a discount or other preferential charge arrangement, a comparison of the average actual charges by payor for the specific diagnoses or procedures; and*

*(c) A system of uniform reporting to achieve comparability of data;*

*4. A list of reportable data items which are necessary for the department to analyze and disseminate comparative price information utilizing its methodology;*

*5. A methodology to analyze and disseminate comparative data regarding provider quality on a diagnosis-specific or procedure-specific basis, including any additional data elements which hospitals and ambulatory facilities shall be required to report, such as clinical findings, readmissions, patient morbidity and mortality, occurrence of iatrogenic disease, nosocomial infection or the like, and a system of uniform reporting to achieve comparability of data; and*

*6. Procedures pertaining to the confidentiality of information collected under this chapter, which shall provide that all information required to be filed with the department pursuant to this chapter shall be made available to the public upon reasonable request but that individual patients shall not be identifiable;*

*(c) Publish periodically, and no less frequently than annually, a report or reports of health care prices and quality which includes diagnosis-specific or procedure-specific comparisons for each hospital and ambulatory facility, differentiated by payor if relevant, resulting from the application of the methodologies to the reported data. The report or reports shall be in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between providers;*

*(d) Report at least biannually to the General Assembly on matters pertaining to comparative health care prices and quality and on the effectiveness of activities carried out pursuant to this chapter in educating consumers and containing health care costs through enhancement of competition, and make recommendations regarding expanding the data collection and dissemination activities to additional areas or types of providers; and*

*(e) Consult with the council in carrying out its activities.*

*(2) The department may:*

*(a) Develop a computerized system for the collection, analysis and dissemination of information, and it may contract for the development of the system or for the provision of data processing services;*

*(b) Require by regulation that no later than one hundred twenty (120) days after adoption of the regulation, information be reported to the department on a specified type of magnetic computer tape or on computer diskette;*

*(c) Require by regulation that within ninety (90) days of the adoption of the regulation, hospitals and ambulatory facilities compile, make available for inspection by the public and inform each patient on admission or registration of the availability of, current information on usual and customary charges for items which are designated in the regulations;*

*(d) Independently audit all information required to be submitted by hospitals and ambulatory facilities as needed to corroborate the accuracy of the submitted data, and authorize its agents to enter upon the premises of a provider for purposes of the audit. Any audit shall be at the expense of the department and shall, to the extent practicable, be coordinated with other audits performed by state agencies;*

*(e) Prepare a computer run or other report on request of a member of the public, or provide computer-to-computer access to public non-patient identifiable reported data, and charge a reasonable user fee for this service; and*

*(f) Issue other administrative regulations necessary for the proper administration of its functions.*

SECTION 4. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created the Health Care Information Council to serve in an advisory capacity to the department in the administration of this chapter. The council shall consist of no more than twelve (12) members appointed by the Governor. The members shall be residents of a covered county and chosen to broadly represent the public interest in access to meaningful information pertaining to health care prices and quality. Three (3) of the appointments shall be made from a list of at least six (6) nominees submitted by the Kentucky Hospital Association. Two (2) of the appointments shall be made from a list of at least four (4) physician nominees submitted by the Kentucky Medical Association. One (1) member shall be chosen from among representatives of ambulatory facilities, other than hospitals, subject to the reporting requirements of this chapter. One (1) other member shall be representative of large employers, one (1) shall be representative of small employers, two (2) shall be representatives of payors and two (2) shall represent consumers. The employer, payor and consumer representatives shall have no financial or ownership interest in any hospital or ambulatory facility subject to the reporting requirements of this chapter, or of any entity affiliated by common ownership or control with such a hospital or ambulatory facility. The chairman shall be elected from among the members by a vote of the council.*

*(2) Council members shall be appointed for terms of three (3) years, except that the terms of the initial appointments shall be as follows: Four (4) members shall be appointed for one (1) year, four (4) members shall be appointed for two (2) years, and four (4) members shall be appointed for three (3) years. Council members shall serve until their successors are appointed and take office. If a vacancy occurs, the Governor shall appoint a replacement to fill the balance of the unexpired term.*

*(3) The council shall meet at least every three (3) months, and on other occasions as may be necessary*

*on the call of the chairman or the commissioner of the department. A majority of the members shall constitute a quorum.*

*(4) No member of the council shall receive any salary, fee or other remuneration for his services as a member of the council, but each member shall be reimbursed for his ordinary travel expenses, including meals and lodging, incurred in the performance of his council duties.*

SECTION 5. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*The council shall advise the commissioner and the department concerning policy and procedure pertaining to the collection, analysis and dissemination of information on health care pricing and quality, including particularly the following:*

*(1) The list of frequently treated medical conditions or frequently used services pertaining to which the department will prepare and publish comparative price and quality information;*

*(2) The methodologies, reportable data items and forms for collecting, analyzing and disseminating comparative information reflecting health care prices and quality; and*

*(3) The form and content of reports to the General Assembly and to the general public.*

SECTION 6. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*(1) Every hospital and ambulatory facility located in a covered county shall file timely, complete and accurate reports, on a form provided or approved by the department, of health care price and quality information as required by the regulations of the department.*

*(2) If the department determines that an audit is necessary, a hospital or ambulatory facility in a covered county shall make available to the department, within thirty (30) days of a written notification by the department to the provider, those books, records or other data necessary for the department to carry out the audit.*

SECTION 7. KRS CHAPTER 239 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*In addition to any other penalties provided by law:*

*(1) Any hospital or ambulatory facility in a covered county which fails to report any required data to the department in the form and within the timetables for reporting established by regulation and which has not prior to the failure been granted an exemption shall be subject to a fine of five thousand dollars ($5,000) for the first violation, ten thousand dollars ($10,000) for the second violation, and twenty thousand ($20,000) for the third or any subsequent violation. If the violation continues more than ten (10) business days after written notice from the department of a failure to report, the hospital or ambulatory facility shall be subject to an additional fine of one thousand dollars ($1,000) per day for each day of continuing violation. Any hospital or ambulatory facility which engages in a pattern of violations of the requirements of this chapter shall also be subject to revocation of its facility license by the Cabinet for Human Resources.*

*(2) Any hospital or ambulatory facility which in response to the requirements of this chapter willfully files false or misleading information with the department shall be subject to a fine of twenty-five thousand dollars ($25,000) for each offense. In addition, the hospital or ambulatory facility shall be subject to revocation of its facility license by the Cabinet for Human Resources.*

*(3) The department may compel compliance with the requirements of this chapter by injunction or other proper proceedings in the Franklin Circuit Court or any other Circuit Court of competent jurisdiction.*

*(4) The commission shall report to the Division of Licensure and Regulation of the Cabinet for Human Resources, or its successor organizational unit responsible for the licensure of health facilities pursuant to KRS Chapter 216B, any pattern of failures to report information as required by the chapter and any willful filing of false or misleading information. Any proceedings to revoke a facility license shall be conducted pursuant to KRS 216B.105, and decisions on revocations shall be subject to judicial appeal pursuant to KRS 216B.115 to 216B.120.*

The Committee Amendment No. 1 to **HB 492** is as follows:

Amend printed copy of **HB 492** on page 2, lines 24 and 25, by deleting the words "*Public Protection and Regulation Cabinet*" and inserting in lieu thereof the words "*Cabinet for Human Resources*".

The Committee Amendment No. 2 to **HB 492** is as follows:

Amend printed copy of **HB** 492 on page 9, line 10, by inserting after the words "***among the***" the word "***consumer***".

**HB 448,** AN ACT relating to medical assistance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Human Resources undertakes to pay shall be designated and limited by regulations promulgated by ***the*** [~~said~~] cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of ***the*** [~~such~~] teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where ***the*** [~~such~~] aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses ***shall be*** [~~are~~] provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent; and

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Human Resources with respect to such bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the medical assistance program, the Cabinet for Human Resources shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. department of labor.[~~; provided however, that~~] Medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit ***shall*** [~~are~~] not ***be*** reimbursable and shall be borne by the facility.[~~, provided however, that~~] Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Human Resources if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless such payments are for services which would otherwise be necessary to the operation of the facility and such services are required by regulations of the Cabinet for Human Resources. Any other [~~such~~] payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Human Resources. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators and other indirect payments made to the owner, unless ***the*** [~~such~~] payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Human Resources; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship ***shall*** [~~will~~] be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. [~~and provided however, that~~] An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) ***The cabinet shall establish and implement a reimbursement system for long-term care facilities which utilizes a rate setting mechanism by which the rates are reasonable and adequate to cover a nursing home's cost which is incurred by an efficiently and economically operated facility in order to provide care and services in conformity with the applicable state and federal laws, regulations, quality and safety standards. The cabinet, in establishing the reimbursement system, shall base the rate of payment, whether overall or component, on the results of scientifically valid analyses and conclusions derived from objective statistical data pertinent to the particular rate of payment. In establishing a reimbursement rate, either a component or overall rate, the cabinet shall consider and make provisions for the variable costs experienced statewide in the long-term care industry contained in the following data: the range and spread of routine costs which results from differing patient care needs; the range and spread of labor costs from one (1) geographic area within Kentucky to another; and the range and spread of costs because of differing values of physical building and equipment. The reimbursement system shall be structured so that the reimbursement rates will provide a facility with full reimbursement of its reasonable and necessary costs of delivering quality patient care.***

***(4)*** No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

***(5)***[~~(4)~~] The [~~rules and~~] regulations of the Cabinet for Human Resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing ***the*** [~~such~~] medical services.

***(6)***[~~(5)~~] The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. ***It shall not be necessary that*** the amount of payments for units of services [~~need not~~] be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

***(7)***[~~(6)~~] Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

***(8)***[~~(7)~~] To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless ***the*** [~~such~~] recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under ***the*** [~~such a~~] physician's supervision.

***(9)***[~~(8)~~] If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of ***the*** [~~such~~] payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

***(10)***[~~(9)~~] ***No*** [~~Every~~] long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986 shall [~~not~~] deny admission of a person to a bed certified for reimbursement under the provisions of the medical assistance program solely on the basis of the person's paying status as a medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the medical assistance program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for medicaid reimbursement. No facility may decertify a bed occupied by a medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

The Committee Amendment No. 1 to **HB 448** is as follows:

Amend printed copy of **HB 448** on page 6, line 26, by inserting after the words "***spread of***" the words "***medical and***".

The Committee on Health and Welfare reported **HB 188** and **HB 501** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 188**, AN ACT relating to health departments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 424 IS CREATED TO READ AS FOLLOWS:

***In lieu of the procedure provided in KRS 424.220, relating to publication of financial statements, each county, city-county or district health department shall, within sixty (60) days after the expiration of each fiscal year, publish in a newspaper qualified under KRS 424.120 to publish legal notices, a summary of revenue and expenditures for the past fiscal year. Revenue and expenditure categories shall be as follows:***

***(1) Revenue categories:***

***(a) State;***

***(b) Federal;***

***(c) Local; and***

***(d) Fees.***

***(2) Expenditure categories:***

***(a) Salaries;***

***(b) Fringe benefits;***

***(c) Contractual expenditures;***

***(d) Travel;***

***(e) Space costs;***

***(f) Office administration;***

***(g) Administrative charges;***

***(h) Medical supplies;***

***(i) Automotive expenses;***

***(j) Other;***

***(k) Capital expenditures; and***

***(l) Indirect costs.***

***The publication shall also include a statement indicating that supporting documents are available for public inspection during regular working hours at the county, city-county or district health department office.***

**HB 501,** AN ACT relating to missing children.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 17.460 is amended to read as follows:

(1) Upon notification by a parent or guardian that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet and which shall include such information as the cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) ***Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the court designated worker with jurisdiction for placement if the law enforcement agency is unable to return the child to the child's parent, guardian or to the state, if a ward of the state.***

***(5)*** Within twenty-four (24) hours after a missing child is located and returned to his parent, guardian or to the state if a ward of the state, ***or is transported to the court designated worker***, the law enforcement agency which ***transported,*** found or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

### Calendar

**HB 261, HB 318, HB 407, HB 508, HB 550, HB 553, HB 577, HB 600, HB 639, HB 442, HB 520, HB 594, HB 679, HB 700, HB 713, HCR 76, HB 444, HB 556, HB 595, HB 653, SB 78, HB 209, HB 423, HB 534, HB 643, SB 52, HB 615, HB 616, HB 695, HB 697, HB 586, HB 605, HB 626, HB 146** and **HB 558** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow floor privileges to a delegation from Korea. Agreed.

A member of the delegation briefly addressed the House.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 175** and **SB 223** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:28 a.m.)

### Orders of the Day

**HB 198** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved that **HB 198** be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See March 2, 1990 roll call on **HB 198** - Appendix.)

**HB 198** was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 198** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 399**, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of Floor Amendment No. 3 to **HB 399**. Agreed.

Representative P. Richardson moved the adoption of Floor Amendment No. 1 to **HB 399**. Agreed.

Representative R. Smith moved that **HB 399**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See March 2, 1990 roll call on **HB 399** - Appendix.)

**HB 399**, as amended, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 399**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 560**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 560**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 560**. Agreed.

Representative Lear moved that **HB 560**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 17. (See March 2, 1990 roll call on **HB 560** - Appendix.)

**HB 560**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 560**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 341**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Substitute to **HB 341**. Agreed.

Representative Scorsone moved that **HB 341**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 2, 1990 roll call on **HB 341** - Appendix.)

**HB 341**, by way of Committee Substitute, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 341**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 562**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Committee Substitute to **HB 562**. Agreed.

Representative McElroy moved that **HB 562**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 2, 1990 roll call on **HB 562** - Appendix.)

**HB 562**, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 562**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 608** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mullinix moved that **HB 608** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 2, 1990 roll call on **HB 608** - Appendix.)

**HB 608** was passed and the title agreed to.

Representative Mullinix moved that the vote by which **HB 608** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 99** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HB 99** be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See March 2, 1990 roll call on **HB 99** - Appendix.)

**HB 99** was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 99** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 637** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 637** be passed.

On the roll call the vote was: Yeas 76, Nays 14. (See March 2, 1990 roll call on **HB 637** - Appendix.)

**HB 637** was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 637** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 118**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to **HB 118**. Agreed.

Representative Burch moved that **HB 118**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 2, 1990 roll call on **HB 118** - Appendix.)

**HB 118**, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 118**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HJR 119** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that **HJR 119** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 2, 1990 roll call on **HJR 119** - Appendix.)

**HJR 119** was passed and the title agreed to.

Representative Lyne moved that the vote by which **HJR 119** was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 29** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 29** be passed.

On the roll call the vote was: Yeas 55, Nays 27. (See March 2, 1990 roll call on **SB 29** - Appendix.)

**SB 29** was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 29** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 129** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 129** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 2, 1990 roll call on **HCR 129** - Appendix.)

**HCR 129** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HCR 129** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 112**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 2 to **HB 112** is as follows:

Amend printed copy of **HB 112** on page 4, between lines 14 and 15, by adding the following new subsection (6):

"***(6) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt or derivative thereof that is expressly intended for administration through implant to livestock or other non-human species, and that is approved by the United States Food and Drug Administration for such use.***"

Representative Long moved that the House refuse to concur in the Senate Amendment No. 2 to **HB 112**. Agreed.

**HB 433**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 433** is as follows:

Amend printed copy of **HB 433** as follows on page 1, lines 10 and 11, delete "***general inspectors of elevators***"; and

On page 1, line 12, delete "[~~no more than five (5) general inspectors of elevators~~]" and insert in lieu thereof: "***no more than ten (10) general inspectors of elevators***"

Representative Hancock moved that the House concur in Senate Amendment No. 1 to **HB 433**. Agreed

Representative Hancock moved that **HB 433**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 2, 1990 roll call on **HB 433** - Appendix.)

**HB 433**, as amended by the Senate, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 433**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 432** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 432** be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 2, 1990 roll call on **HB 432** - Appendix.)

**HB 432** was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 432** was passed be reconsidered and said motion be placed on the table. Agreed.

### Motions, Petitions and Communications

Representative Stumbo moved that **HB 428** be recommitted to the Committee on Rules. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Introduction of Bills and Resolutions

**HB 889**, by Representative Donnermeyer: AN ACT relating to local government tort liability.

**HB 890**, by Representative Donnermeyer: AN ACT relating to school districts.

**HB 891**, by Representatives Walker and Kerr: AN ACT relating to teachers' aides.

**HB 892**, by Representatives J. Harper and A. Jones: AN ACT relating to pleas in criminal cases.

**HB 893**, by Representative Brown: AN ACT relating to the environment.

**HB 894**, by Representative Blevins: AN ACT relating to compulsory school attendance.

**HB 895**, by Representative Lefevers: AN ACT relating to hospital insurance tax.

**HB 896**, by Representative A. Jones: AN ACT relating to surety bonds.

**HB 897**, by Representative Ward: AN ACT relating to sports officials.

**HB 898**, by Representative Moberly: AN ACT relating to education.

**HB 899**, by Representative Donnermeyer: AN ACT relating to protection of unborn human life.

**HB 900**, by Representatives Lear, Freibert, Cyrus, Jackson and K. Harper: AN ACT relating to group insurance.

**HB 901**, by Representative Northup: AN ACT relating to development impact fees.

**HB 902**, by Representative A. Jones: AN ACT relating to an electronic information delivery system, and making an appropriation therefor.

**HB 903**, by Representative Rapier: AN ACT relating to reform of the Commonwealth's system of common schools.

**HB 904**, by Representatives Lewis, Geveden and B. Richardson: AN ACT relating to outdoor advertising.

**HB 905**, by Representatives Preston, Mason, Bentley, White, Napier, J. Harper and Brown: AN ACT relating to income taxes.

**HB 906**, by Representative A. Jones: AN ACT relating to state purchasing and declaring an emergency.

**HB 907**, by Representative Deskins: AN ACT relating to workers' compensation.

**HB 908**, by Representative Deskins: AN ACT relating to worker's compensation.

**HB 909**, by Representative Kerr: AN ACT relating to the regulation of HVAC occupations.

**HB 910**, by Representatives Donnermeyer and Jackson: AN ACT relating to school employees.

**HB 911**, by Representative Hancock: AN ACT relating to athletic trainers.

**HB 912**, by Representative Hancock: AN ACT relating to prepaid dental plan organizations.

**HB 913**, by Representative Stumbo: AN ACT relating to crimes and punishments.

**HB 914**, by Representatives Stumbo, Deskins, Altman, Strong and Reinhardt: AN ACT relating to state government.

**HB 915**, by Representative Stumbo: AN ACT relating to shooting ranges.

**HB 916**, by Representative Stumbo: AN ACT relating to proof of attested instrument.

**HB 917**, by Representative Strong: AN ACT relating to economic development and tourism, making an appropriation therefor and declaring an emergency.

**HB 918**, by Representative Strong: AN ACT relating to crimes and punishments.

**HB 919**, by Representative Hancock: AN ACT relating to motor fuels tax and making an appropriation.

**HB 920**, by Representatives T. Jones, Moberly, Barrows, Noland, Lear, Hancock and Mack: AN ACT relating to the Kentucky River.

**HB 921**, by Representative A. Jones: AN ACT relating to to small business development, and declaring an emergency.

**HB 922**, by Representatives Hatcher, Gray and Mason: AN ACT proposing to amend Sections 71, 82, and 93 of the Constitution of Kentucky relating to terms of elected officials.

**HB 923**, by Representative R. Smith: AN ACT relating to intertrack wagering.

**HB 924**, by Representative Barrows: AN ACT relating to workers' compensation.

**HB 925**, by Representative Barrows: AN ACT relating to state employees.

**HB 926**, by Representative Cyrus: AN ACT relating to workers' compensation.

**HB 927**, by Representative Donnermeyer: AN ACT relating to collective bargaining.

**HB 928**, by Representative Donnermeyer: AN ACT relating to labor.

**HB 929**, by Representatives Stumbo, Maggard, Hatcher, Jackson, Bruce, Siler, Little, Altman, Morris, R. Smith, Burch, Turner, Strong, Zimmerman, Arnold, Cyrus, Noland, Gray, Deskins, Lyne, Cline, White, Mason, Lefevers, Crupper, Bentley, Mack and Adkins: AN ACT relating to economic development road projects and declaring an emergency.

**HB 930**, by Representative Hatcher: AN ACT relating to legislative compensation and allowances.

**HB 931**, by Representative A. Jones: AN ACT relating to certificate of need.

**HB 932**, by Representative Gedling: AN ACT relating to electronic voting systems.

**HB 933**, by Representative Gedling: AN ACT relating to transportation for school children.

**HR 177**, by Representative Adkins: A RESOLUTION urging the United States Postal Service to issue commemorative stamps honoring the late Chief Justice Fred M. Vinson of Kentucky.

**HJR 178**, by Representative Priddy: A JOINT RESOLUTION relating to the economic growth and development of Kentucky.

**HJR 179**, by Representative A. Jones: A JOINT RESOLUTION directing the Cabinet for Economic Development, in conjunction with the Finance and Administration Cabinet and the Transportation Cabinet to consider and develop plans for implementing a state administered surety bonding program in this Commonwealth.

**HCR 180**, by Representative A. Jones: A CONCURRENT RESOLUTION creating a Task Force on Sentencing Guidelines.

**HR 181**, by Representative Stumbo: A RESOLUTION commending the "International Training on Local Governmental Autonomy and Local Governmental Practice" and adjourning in honor of its South Korean participants.

**HCR 182**, by Representatives R. Smith and Farrow: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the Economic Development Cabinet and the economic impact state regulatory agencies have on existing businesses and industries.

**HJR 183**, by Representative Cyrus: A JOINT RESOLUTION petitioning the Legislative Research Commission to establish a special Task Force on Collective Bargaining for State Employees.

**HR 184**, by Representatives Cyrus and Butler: A RESOLUTION pertaining to cost-of-living pension adjustments for state employees.

**HJR 185**, by Representative Worthington: A JOINT RESOLUTION establishing a highway construction plan.

**HCR 186**, by Representatives Morris, A. Jones, Richards and B. Richardson: A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to conduct a feasibility study concerning the construction of a regional airport in the western part of the state.

**HCR 187**, by Representatives Freibert and Lile: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose an amendment to the Constitution of the United States of America for submission to the states to limit the number of terms which members of Congress are eligible to serve.

## Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 731, HB 755, HB 809**.

Labor and Industry: **HB 684, HB 690, HB 718, HB 735, HB 785, SCR 72**.

State Government: **HB 855**.

Energy: **HB 791**.

Transportation: **HB 51, HB 313, HB 474, HB 549, HB 630, HB 635, HB 659, HB 678, HB 696, HB 707, HB 723, HB 724, HB 751, HB 780, SB 34, SB 81, SB 237**.

Counties and Special Districts: **HB 327, HB 379, HB 451, HB 515, HB 611, HB 632, HB 660, HB 767, HCR 163, SB 270**.

Agriculture and Small Business: **HB 743**.

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Energy: **HB 74**.

Counties and Special Districts: **HB 326, HB 571, SB 64**.

Representative Mack moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mack moved that his vote be changed from "yea" to "nay" on **SB 29**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 560**. Agreed.

Representative Brown moved that the rules be suspended to withdraw **HB 819**. Agreed.

Representative P. Richardson moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 53. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you Glenn D. Stanfield, Sr., for your perseverance in the quest of furthering your educational endeavors. Your repeated quest for certified notification that you are fully qualified for the role as an auctioneer, despite physical handicaps and the fact that you supplemented your income as a truck driver stands as a testimony to your assertiveness and your dedication to further educational excellence.

This prestigious body joins Representative Paul Richardson in saluting and congratulating you on your fine accomplishment.

Representative K. Harper moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative K. Harper moved the adoption of the following Legislative Citation No. 54. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Jeff Eger for the noteworthy and outstanding contributions you have made to the Commonwealth of Kentucky. Through your work with a number of distinguished organizations, such as, the Kentucky Advocates for Higher Education, the Kentucky Literacy Commission, the Jesse Stuart Book Program, the Kentucky Jaycees, and Project 21, you have striven to provide a better Commonwealth with a brighter future for the children of Kentucky. The Kentucky Jaycees have recognized your dedication and are presenting you with their "Outstanding Young Leader Award".

This prestigious body joins Representative Ken Harper in congratulating you on receiving this much deserved honor. We extend to you our appreciation for your efforts and best wishes for continued success in the future.

Representative P. Richardson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative P. Richardson moved the adoption of the following **HR 168**:

**HR 168**, A RESOLUTION directing the Secretary of Transportation to consider the construction of access ramps at the junction of KY 974 and the Mountain Parkway.

WHEREAS, there are no entrance and exit ramps which access the Mountain Parkway in Clark County other than the access point heading east on Interstate 64 which is the beginning of the parkway; and

WHEREAS, this lack of access denies the residents of Clark County who live outside the city limits of Winchester use of the Mountain Parkway without taking a long, circuitous route into Powell County; and

WHEREAS, the primary reason for the lack of access in the past was to protect the integrity of the Mountain Parkway by requiring its users to pay tolls and that reason is no longer valid because the tolls have been removed; and

WHEREAS, since the tolls have been removed there is a great need to provide additional access to the Mountain Parkway, not only for easing the travel of county residents, but also to aid the county in its ability to attract businesses into the area; and

WHEREAS, the junction of KY 974 and the Mountain Parkway is the most logical point for the construction of ramps accessing the Mountain Parkway for the rural residents of Clark County because of the population which would be served; and

WHEREAS, the construction of these ramps could be accomplished by including the project as part of the bond issue being proposed by the Transportation Cabinet for the upcoming biennium;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Secretary of Transportation be directed to consider constructing access ramps at the junction of the Mountain Parkway and KY 974.

Section 2. That the funds for this construction project could be provided from the bond issue being proposed by the Transportation Cabinet and approved by the General Assembly for the 1990-1992 biennium.

Section 3. That a copy of this resolution be sent to the Governor of the Commonwealth of Kentucky and the Secretary of the Kentucky Transportation Cabinet.

**HR 168** was adopted by voice vote.

Representative Adkins moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Adkins moved the adoption of the following **HR 177**:

**HR 177**, A RESOLUTION urging the United States Postal Service to issue commemorative stamps honoring the late Chief Justice Fred M. Vinson of Kentucky.

WHEREAS, The Honorable Fred M. Vinson was born in Louisa in Lawrence County, Kentucky on January 22, 1890; and

WHEREAS, The Honorable Fred M. Vinson rose from humble beginnings to become a United States Congressman from Kentucky; and

WHEREAS, The Honorable Fred M. Vinson, because of his outstanding vision and abilities, was named to serve as the Secretary of the Treasury of the United States and in many other important government positions; and

WHEREAS, during World War II the Honorable Fred M. Vinson was appointed by President Roosevelt to head the Economic Stabilization Board to stabilize prices due to production shortages; and

WHEREAS, The Honorable Fred M. Vinson served the people of this nation as Chief Justice of the Supreme Court of the United States from 1946 until his death in 1953;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives urges the United States Postal Service to issue commemorative stamps honoring former Chief Justice Fred M. Vinson of Kentucky.

Section 2. That the Clerk of the House send a copy of this resolution to the Postmaster General, U.S. Postal Service, 475 L'Enfant Plaza, S.W. Washington, D.C. 20260-6700.

**HR 177** was adopted by voice vote.

### Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

### Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to clear the record. Agreed.

Representative Stumbo moved that the previous motion that **HB 428** be recommitted to the Committee on Rules be withdrawn. Agreed.

Representative Stumbo moved that **HB 428** be reassigned to the Committee on Economic Development and Tourism. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so until 4:00 p.m., Monday, March 5, 1990. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for Introduction of Bills and Resolutions, Committee Reports and Posting of Bills and Resolutions for Consideration. Agreed.

### Recess

Representative Stumbo moved that the House recess until 12 noon for the purpose of filing of Bills and Resolutions. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

### Introduction of Bills and Resolutions

**HB 934**, by Representative Gray: AN ACT relating to evidence in driving under the influence cases.

**HB 935**, by Representative Gray: AN ACT relating to poisonous substances.

**HB 936**, by Representative LeMaster: AN ACT relating to planning and zoning.

**HB 937**, by Representative Adkins: AN ACT relating to health insurance for state employes.

**HB 938**, by Representative Noland: AN ACT relating to the film industry.

**HB 939**, by Representative B. Smith: AN ACT relating to police and firefighter retirement funds in cities of the second class.

**HCR 188**, by Representative Clarke: A CONCURRENT RESOLUTION authorizing and directing a study to determine a strategy for implementing a system of performance measures for Kentucky's state government programs and agencies

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Labor and Industry; **HB 839**, **HB 840**, **HB 841**.

### Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 425**, by Representative Mason:

Amend printed copy of **HB 425/HCS** on page 77, line 10, delete "*57*" and insert in lieu thereof "*55*";

And on page 85, delete lines 10 through 26;

And on page 86, delete lines 1 through 26;

And on page 87, delete lines 1 through 26;

And on page 88, delete lines 1 through 26;

And on page 89, delete lines 1 through 26;

And on page 90, delete lines 1 through 26;

And on page 91, delete line 1 and renumber remaining sections accordingly;

And on page 97, line 3, delete "***55, 56, or 57***" and insert in lieu thereof "***52, 53, or 54***";

And on page 112, line 15, delete "***64***" and insert in lieu thereof "***62***";

And on page 119, line 5, delete "***68***" and insert in lieu thereof "***66***".

Floor Amendment No. 2 to the Committee Substitute to **HB 639**, by Representative Burch:

Amend printed copy of **HB 639/HCS** on page 3, line 23, by deleting the words "***may in its discretion,***" and inserting in lieu thereof the word "***shall***";

And on page 3, line 25, by deleting the words "***However, in***";

And on page 3, by deleting line 26 in its entirety;

And on page 4, by deleting lines 1 through 5 in their entirety.

Floor Amendment No. 3 to the Committee Substitute to **HB 639**, by Representative Burch:

Amend printed copy of **HB 639/HCS** on page 27, by deleting line 20 in its entirety.

Floor Amendment No. 4 to the Committee Substitute to **HB 639**, by Representative Burch:

Amend printed copy of **HB 639/HCS** on page 27, line 17, by inserting after the words "Section 16.", the following phrase:

"KRS 406.111 is amended to read as follows:

If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question may be submitted upon all the evidence. If the ***court finds that the statistical probability of paternity equals or exceeds ninety-nine percent (99%), as calculated by the experts qualified as examiners of genetic markers and that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is one hundred (100) to one (1) or greater, there shall be a rebuttable presumption, affecting the burden of proof, of paternity. This presumption may only be rebutted by a preponderance of the evidence. The court may enter a summary judgment of paternity without trial upon failure of the alleged father to present to the court credible evidence to rebut the presumption of paternity.***

***(2) As used in this section:***

***(a) "Genetic markers" mean separate identifiable genes or complexes of genes generally isolated as a result of blood typing, at least seven (7) of which are normally tested in a paternity determination; and***

***(b) "Paternity index" means the commonly accepted indicator used for denoting the existence of paternity. It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic background. The paternity index, computed using results of various paternity tests following accepted statistical principles for the computation of probability, shall be in accordance with the method of expression accepted at the international conference on parentage at Arlie House, Virginia, May, 1982, sponsored by the American Association of Blood Banks*** [~~experts conclude that the blood tests show the possibility of the alleged father's paternity, admission of this evidence is within the discretion of the court, depending upon the infrequency of the blood type~~].

Section 17."

Floor Amendment No. 5 to the Committee Substitute to **HB 639**, by Representative Burch:

Amend printed copy of **HB 639/HCS** on page 26, line 19, by inserting the year "***1990,***" after "July 15,"; and by bracketing and striking through the words "1988, in";

And on page 26, line 21, by bracketing and striking through the words "the order or decree";

And on page 26, line 21, by inserting after the word “shall”, the words “***provide for a wage assignment which shall begin immediately except for good cause shown. If good cause is shown, the wage assignment shall take effect when***”;

And on page 26, line 22, by bracketing and striking through the words “include a provision that if”;

And on page 26, lines 23 and 24, by inserting a bracket preceding the following: “, a wage assignment”;

And on page 26, line 24, by deleting only the brackets preceding and after the following: “~~pursuant to KRS 405.465~~”;

And on page 26, line 24, by placing strikethroughs through the words “may issue” and by inserting a bracket after the word “issue”.

Floor Amendment No. 6 to the Committee Substitute to **HB 639**, by Representative Burch:

Amend printed copy of **HB 639/HCS** on page 7, line 24, by deleting the number “***141***” and inserting in lieu thereof the number “***171***”;

And on page 7, line 25, by deleting the number “***192***” and inserting in lieu thereof the number “***203***”;

And on page 7, line 26, by deleting the numbers “***216***” and “***248***” and inserting in lieu thereof the numbers “***261***” and “***266***” respectively;

And on page 8, by deleting lines 1 through 26 in their entirety and inserting in lieu thereof the following:

| | | | | | | |
|---|---|---|---|---|---|---|
| “1,000 | 195 | 303 | 325 | 330 | 335 | 340 |
| 1,100 | 212 | 324 | 384 | 389 | 394 | 399 |
| 1,200 | 229 | 346 | 433 | 446 | 451 | 456 |
| 1,300 | 246 | 367 | 460 | 504 | 510 | 515 |
| 1,400 | 262 | 392 | 491 | 554 | 576 | 582 |
| 1,500 | 277 | 417 | 522 | 588 | 642 | 650 |
| 1,600 | 293 | 437 | 548 | 618 | 674 | 717 |
| 1,700 | 308 | 458 | 574 | 647 | 706 | 755 |
| 1,800 | 322 | 478 | 599 | 675 | 736 | 788 |
| 1,900 | 336 | 495 | 620 | 699 | 763 | 816 |
| 2,000 | 350 | 512 | 642 | 723 | 789 | 844 |
| 2,100 | 364 | 529 | 663 | 747 | 815 | 872 |
| 2,200 | 376 | 546 | 684 | 771 | 841 | 900 |
| 2,300 | 389 | 563 | 706 | 795 | 868 | 928 |
| 2,400 | 401 | 580 | 727 | 819 | 894 | 956 |
| 2,500 | 413 | 597 | 749 | 843 | 920 | 984 |
| 2,600 | 424 | 614 | 770 | 867 | 946 | 1,012 |
| 2,700 | 435 | 630 | 790 | 889 | 970 | 1,038 |
| 2,800 | 445 | 646 | 809 | 911 | 994 | 1,064 |
| 2,900 | 455 | 662 | 829 | 934 | 1,019 | 1,090 |
| 3,000 | 465 | 677 | 849 | 956 | 1,043 | 1,116 |
| 3,100 | 475 | 693 | 868 | 978 | 1,067 | 1,142 |
| 3,200 | 485 | 709 | 888 | 1,001 | 1,092 | 1,168 |
| 3,300 | 495 | 725 | 908 | 1,023 | 1,116 | 1,194 |
| 3,400 | 506 | 741 | 928 | 1,045 | 1,140 | 1,220 |
| 3,500 | 516 | 757 | 947 | 1,067 | 1,164 | 1,246” |

And on page 9, by deleting lines 1 through 26 in their entirety, and inserting in lieu thereof the following:

| | | | | | | |
|---|---|---|---|---|---|---|
| “3,600 | 526 | 733 | 967 | 1,090 | 1,189 | 1,272 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 3,700 | 536 | 790 | 988 | 1,113 | 1,215 | 1,299 |
| 3,800 | 548 | 808 | 1,011 | 1,139 | 1,243 | 1,359 |
| 3,900 | 559 | 826 | 1,033 | 1,164 | 1,270 | 1,359 |
| 4,000 | 571 | 844 | 1,056 | 1,190 | 1,298 | 1,338 |
| 4,100 | 580 | 862 | 1,078 | 1,215 | 1,326 | 1,418 |
| 4,200 | 592 | 880 | 1,101 | 1,240 | 1,353 | 1,448 |
| 4,300 | 603 | 898 | 1,123 | 1,266 | 1,381 | 1,477 |
| 4,400 | 615 | 916 | 1,146 | 1,291 | 1,409 | 1,507 |
| 4,500 | 626 | 933 | 1,161 | 1,316 | 1,435 | 1,535 |
| 4,600 | 636 | 949 | 1,181 | 1,338 | 1,459 | 1,561 |
| 4,700 | 647 | 964 | 1,200 | 1,360 | 1,483 | 1,586 |
| 4,800 | 657 | 980 | 1,220 | 1,381 | 1,507 | 1,612 |
| 4,900 | 667 | 995 | 1,239 | 1,403 | 1,531 | 1,637 |
| 5,000 | 676 | 1,010 | 1,257 | 1,424 | 1,554 | 1,661 |
| 5,100 | 686 | 1,025 | 1,275 | 1,444 | 1,576 | 1,685 |
| 5,200 | 695 | 1,039 | 1,294 | 1,465 | 1,599 | 1,709 |
| 5,300 | 705 | 1,054 | 1,312 | 1,486 | 1,621 | 1,773 |
| 5,400 | 714 | 1,069 | 1,330 | 1,506 | 1,644 | 1,757 |
| 5,500 | 724 | 1,083 | 1,348 | 1,527 | 1,666 | 1,781 |
| 5,600 | 733 | 1,098 | 1,367 | 1,548 | 1,689 | 1,805 |
| 5,700 | 743 | 1,113 | 1,385 | 1,568 | 1,712 | 1,829 |
| 5,800 | 753 | 1,127 | 1,403 | 1,589 | 1,734 | 1,853 |
| 5,900 | 762 | 1,142 | 1,421 | 1,610 | 1,757 | 1,877 |
| 6,000 | 772 | 1,157 | 1,440 | 1,630 | 1,779 | 1,901 |
| 6,100 | 781 | 1,171 | 1,458 | 1,651 | 1,802 | 1,926" |

And on page 10, by deleting lines 1 through 26 in their entirety, and inserting in lieu thereof the following:

| | | | | | | |
|---|---|---|---|---|---|---|
| "6,200 | 791 | 1,186 | 1,476 | 1,672 | 1,824 | 1,950 |
| 6,300 | 800 | 1,198 | 1,498 | 1,690 | 1,844 | 1,970 |
| 6,400 | 808 | 1,209 | 1,511 | 1,705 | 1,860 | 1,988 |
| 6,500 | 816 | 1,219 | 1,524 | 1,720 | 1,876 | 2,005 |
| 6,600 | 823 | 1,230 | 1,538 | 1,735 | 1,893 | 2,023 |
| 6,700 | 830 | 1,240 | 1,551 | 1,750 | 1,909 | 2,040 |
| 6,800 | 837 | 1,251 | 1,564 | 1,764 | 1,925 | 2,058 |
| 6,900 | 844 | 1,261 | 1,577 | 1,779 | 1,942 | 2,075 |
| 7,000 | 851 | 1,272 | 1,591 | 1,794 | 1,958 | 2,093 |
| 7,100 | 858 | 1,282 | 1,604 | 1,809 | 1,975 | 2,110 |
| 7,200 | 865 | 1,293 | 1,617 | 1,824 | 1,991 | 2,127 |
| 7,300 | 872 | 1,303 | 1,630 | 1,839 | 2,007 | 2,145 |
| 7,400 | 879 | 1,313 | 1,644 | 1,854 | 2,024 | 2,162 |
| 7,500 | 885 | 1,324 | 1,657 | 1,869 | 2,040 | 2,179 |
| 7,600 | 891 | 1,333 | 1,668 | 1,881 | 2,053 | 2,194 |
| 7,700 | 896 | 1,342 | 1,679 | 1,893 | 2,066 | 2,208 |
| 7,800 | 901 | 1,350 | 1,691 | 1,905 | 2,079 | 2,223 |
| 7,900 | 907 | 1,359 | 1,702 | 1,917 | 2,093 | 2,238 |
| 8,000 | 912 | 1,368 | 1,713 | 1,929 | 2,106 | 2,252 |
| 8,100 | 917 | 1,377 | 1,724 | 1,941 | 2,119 | 2,267 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 8,200 | 922 | 1,386 | 1,736 | 1,953 | 2,133 | 2,281 |
| 8,300 | 928 | 1,395 | 1,747 | 1,965 | 2,146 | 2,296 |
| 8,400 | 933 | 1,404 | 1,758 | 1,977 | 2,159 | 2,311 |
| 8,500 | 938 | 1,413 | 1,769 | 1,989 | 2,173 | 2,325 |
| 8,600 | 944 | 1,421 | 1,780 | 2,002 | 2,186 | 2,340 |
| 8,700 | 949 | 1,430 | 1,792 | 2,014 | 2,199 | 2,354" |

And on page 11, by deleting lines 1 through 13 in their entirety, and inserting in lieu thereof the following:

| | | | | | | |
|---|---|---|---|---|---|---|
| "8,800 | 954 | 1,437 | 1,800 | 2,024 | 2,210 | 2,366 |
| 8,900 | 958 | 1,444 | 1,809 | 2,033 | 2,220 | 2,376 |
| 9,000 | 962 | 1,450 | 1,817 | 2,042 | 2,230 | 2,387 |
| 9,100 | 966 | 1,457 | 1,825 | 2,052 | 2,241 | 2,398 |
| 9,200 | 971 | 1,463 | 1,833 | 2,061 | 2,251 | 2,408 |
| 9,300 | 975 | 1,470 | 1,842 | 2,070 | 2,261 | 2,419 |
| 9,400 | 979 | 1,476 | 1,850 | 2,079 | 2,271 | 2,430 |
| 9,500 | 983 | 1,483 | 1,858 | 2,089 | 2,281 | 2,440 |
| 9,600 | 988 | 1,489 | 1,866 | 2,098 | 2,291 | 2,451 |
| 9,700 | 992 | 1,496 | 1,874 | 2,107 | 2,301 | 2,461 |
| 9,800 | 996 | 1,502 | 1,883 | 2,117 | 2,311 | 2,472 |
| 9,900 | 1,000 | 1,508 | 1,891 | 2,126 | 2,321 | 2,483 |
| 10,000 | 1,005 | 1,515 | 1,899 | 2,165 | 2,331 | 2,493". |

Floor Amendment No. 4 to the Committee Substitute to SB 68, by Representative Morris:

Amend printed copy of HCS for **SB 68** on page 1, line 1, through page 4, line 20, on page 1, line 1, through page 4, line 20, by deleting Section 1 in its entirety and renumbering the remaining sections to conform.

And on page 15, line 8,

After the word "homes;" by inserting "***hospitals;***".

And on page 15, line 25,

After the word "regulation." by inserting "***Hospital based long-term care beds and psychiatric beds shall not be exempt from certificate of need requirements.***"

And on page 16, line 1,

By deleting lines 1 through 8.

And on page 16, line 9,

By deleting "*(3)*" and by removing the brackets and strike throughs from "(2)".

And on page 24, line 17,

By deleting lines 17 through 26.

And on page 25, line 1,

By deleting lines 1 through 26,

And on page 26, line 1,

By deleting line 1 through 10,

And on page 55, line 17, through page 56, line 11,

By deleting SECTION 17 in its entirety.

The Clerk announced the following meeting:

## Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 5, 1990.

The motion that the House adjourn until 4:00 p.m., Monday, March 5, 1990 was adopted by voice vote.

## MONDAY, MARCH 5, 1990

## THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. Jeffrey L. Hawkins, Westview Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 2, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 239**, **SB 245**, **SB 304**, **SB 306**, **SB 312**, **SB 315**, **SCR 71**, **SCR 73**, **SJR 85**, **HB 73** with Senate Amendments, **HB 88** with Senate Amendments, **HB 350** with Senate Amendment, **HB 57**, **HB 83**, **HB 84**, **HB 149**, **HB 237**, **HB 268**, **HB 270**, **HB 317**, **HB 344**, **HB 404** and **HB 532**.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 321** and **HB 422** have been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:04 p.m.)

**HB 321** and **HB 422** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Introduction of Bills and Resolutions

**HR 189**, by Representative Little: A RESOLUTION honoring Chapter 1.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 935**.

Appropriations and Revenue: **HB 864**, **HB 885**, **HB 886**, **HB 905**, **HB 914**, **HB 919**, **HB 929**, **HB 939**, **HJR 171**, **SB 297**, **SB 298**.

Banking and Insurance: **HB 867**, **HB 900**, **HB 912**, **HB 937**.

Business Organizations and Professions: **HB 872**, **HB 874**, **HB 897**, **HB 909**, **HB 911**, **HB 923**.

Counties and Special Districts: **HB 866**.

Economic Development and Tourism: **HB 881**, **HB 901**, **HB 904**, **HB 917**, **HB 921**, **HB 938**, **HCR 169**, **HCR 170**, **HJR 178**, **HJR 179**, **HCR 182**, **HCR 186**.

Education: **HB 878**, **HB 890**, **HB 891**, **HB 894**, **HB 895**, **HB 898**, **HB 903**, **HB 910**, **HB 927**, **HB 928**, **HB 933**.

Elections and Constitutional Amendments: **HB 922**, **HB 932**, **HCR 187**.

Energy: **HB 936**.

Health and Welfare: **HB 880**, **HB 887**, **HB 888**, **HB 899**, **HJR 173**.

Judiciary: **HB 869**, **HB 875**, **HB 883**, **HB 884**, **HB 889**, **HB 892**, **HB 913**, **HB 916**, **HB 918**, **HCR 180**.

Labor and Industry: **HB 865**, **HB 871**, **HB 907**, **HB 908**, **HB 924**, **HB 926**, **HJR 183**.

Natural Resources and Environmental Protection: **HB 893**, **HB 915**, **HB 920**.

State Government: **HB 873**, **HB 876**, **HB 877**, **HB 879**, **HB 896**, **HB 902**, **HB 906**, **HB 925**, **HB 930**, **HB 931**, **HJR 174**, **HCR 175**, **HCR 188**, **SB 184**.

Transportation: **HB 868**, **HB 870**, **HB 882**, **HB 934**, **HJR 185**, **SB 158**.

### Report of Committees

The Committee on Rules reported **HB 115**, **HB 261**, **HB 318**, **HB 423**, **HB 442**, **HB 444**, **HB 508**, **HB 520**, **HB 534**, **HB 553**, **HB 577**, **HB 586**, **HB 594**, **HB 595**, **HB 600**, **HB 605**, **HB 615**, **HB 616**, **HB 643**, **HB 679**, **HB 713**, **HCR 76** and **SB 52** has been posted for passage in Orders of the Day, March 6, 1990.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Banking and Insurance: **HB 631**, **HB 641**, **HB 677**, **HB 745**, **HB 765**, **HB 774**, **HB 783**, **HB 818**, **HB 834**, **SB 150**, **SB 182**, **SB 242**.

Judiciary: **HB 199**, **HB 201**, **HB 559**, **HB 656**.

Health and Welfare: **HB 663**, **HB 838**, **HB 887**, **HB 888**, **HB 781**, **HCR 159**.

### Calendar

**HB 123**, **HB 189**, **HB 355**, **HB 492** and **HB 448** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**HB 188** and **HB 501** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Orders of the Day

**HB 100**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of Committee Substitute to **HB 100**. Agreed.

Representative A. Jones moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 100**. Agreed.

Representative L. Clark moved that **HB 100**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 5, 1990 roll call on **HB 100** - Appendix.)

**HB 100**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 100**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 503**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of Committee Substitute to **HB 503**. Agreed.

Representative Crupper moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 503**. Agreed.

Representative Crupper moved that **HB 503**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 5, 1990 roll call on **HB 503** - Appendix.)

**HB 503**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 503**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 102**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Committee Substitute to **HB 102**. Agreed.

Representative Ridley moved that **HB 102**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 5, 1990 roll call on **HB 102** - Appendix.)

**HB 102**, by way of Committee Substitute, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 102**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 213** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 213** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 5, 1990 roll call on **SB 213** - Appendix.)

**SB 213** was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 213** was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 214** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 214** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 5, 1990 roll call on **SB 214** - Appendix.)

**SB 214** was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 214** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 581** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Allen moved that **HB 581** be passed.

On the roll call the vote was: Yeas 78, Nays 11. (See March 5, 1990 roll call on **HB 581** - Appendix.)

**HB 581** was passed and the title agreed to.

Representative Allen moved that the vote by which **HB 581** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 599**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of Committee Substitute to **HB 599**. Agreed.

Representative Ballard moved that **HB 599**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 5, 1990 roll call on **HB 599** - Appendix.)

**HB 599**, by way of Committee Substitute, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 599**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 57** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 57** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 5, 1990 roll call on **SB 57** - Appendix.)

**SB 57** was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 57** was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 166** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **SB 166** be passed.

On the roll call the vote was: Yeas 82, Nays 5. (See March 5, 1990 roll call on **SB 166** - Appendix.)

**SB 166** was passed and the title agreed to.

Representative Sheehan moved that the vote by which **SB 166** was passed be reconsidered and said motion be placed on the table. Agreed.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 29** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:26 p.m.)

### Orders of the Day (Continued)

**HB 395**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 395**. Agreed.

Representative Little moved that **HB 395**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 5, 1990 roll call on **HB 395** - Appendix.)

**HB 395**, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 395**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 425**, with Committee Substitute, Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Substitute to **HB 425**. Agreed.

Representative Mason moved the adoption of Committee Amendment No. 1 to **HB 425**. Agreed.

Representative Mason moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 425**. Agreed.

Representative Riner moved the adoption of Committee Amendment No. 3 to **HB 425**. Agreed.

Representative Mason moved that **HB 425**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See March 5, 1990 roll call on **HB 425** - Appendix.)

**HB 425**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 425**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 628**, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HB 628** be passed.

Representative Northup moved the adoption of Floor Amendment No. 1 to **HB 628**.

Representative Gedling inquired whether Floor Amendment No. 1 to **HB 628** was a piggyback.

The Speaker ruled that it was not a piggyback.

Floor Amendment No. 1 to **HB 628** was rejected.

Representative Northup moved the adoption of Floor Amendment No. 2 to **HB 628**.

On the roll call the vote was yeas 20—Ackerson, Ark, Burch, Freibert, J. Harper, K. Harper, Heleringer, Lear, Mack, Mason, Noe, Northup, Reinhardt, Scorsone, Sheehan, Siler, R. Smith, Stokes, Walker, Zimmerman. Nays 57—Adkins, Allen, Altman, Arnold, Ballard, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Butler, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Ford, Gedling, Geveden, Gray, Gregory, Hancock, Hatcher, Hourigan, Jackson, A. Jones, Keith, Kerr, Layman, Long, Lyne, Maggard, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, O'Brien, Overstreet, Preston, Pritchett, Rapier, Richards, B. Smith, Stumbo, Turner, Ward, Worthington, Yates.

Floor Amendment No. 2 to **HB 628** was rejected.

Representative Gedling moved that **HB 628** be passed.

On the roll call the vote was: Yeas 81, Nays 11. (See March 5, 1990 roll call on **HB 628** - Appendix.)

**HB 628** was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 628** was passed be reconsidered and said motion be placed on the table. Agreed.

**SCR 20** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **SCR 20** be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 5, 1990 roll call on **SCR 20** - Appendix.)

**SCR 20** was passed and the title agreed to.

Representative Hancock moved that the vote by which **SCR 20** was passed be reconsidered and said motion be placed on the table. Agreed.

### Motions, Petitions and Communications

Representative Stumbo moved that **HB 462** be recommitted to the Committee on State Government. Agreed.

Representative Stumbo moved that **HB 830** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Introduction of Bills and Resolutions

**HR 190**, by Representative Ridley: A RESOLUTION honoring Fred Cecil Creasey.

**HR 191**, by Representative Heleringer: A RESOLUTION congratulating Joseph Conrad, the winner of the 1990 Poster Child Contest of the Kentucky Chapter of the Leukemia Society of America.

**HR 192**, by Representative Ackerson: A RESOLUTION honoring the Hurstbourne Christian Church Cub Scout Pack 8, Den 6.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 495**.

Natural Resources and Environmental Protection: **HB 80, SB 141, SB 149, SB 154, SB 155, SB 156, SB 190, SB 194, SB 202, SB 205, SB 218, SB 255, HCR 155, HCR 161.**

State Government: **HB 686, HB 274, HB 275, HB 277, HB 278, HB 279, HB 280, HB 281, HB 282, HB 283, HB 284, HB 746, SB 269.**

Economic Development and Tourism: **HB 938, HB 428.**

Judiciary: **HB 644.**

Education: **SB 86, HB 701, HB 824, HB 910, SB 207, SB 215.**

Appropriations and Revenue: **SB 228, SB 4, HB 830.**

## Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 15** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 15,** AN ACT relating to city elections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 83A.045 is amended to read as follows:

(1) Partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than ***one hundred twenty (120)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

(c) A candidate for city office ***that is defeated*** in a partisan ***primary*** election shall be prohibited from ***seeking election to the same office during the regular election by changing his registration to independent or by conducting a write-in campaign*** [~~being a registered party candidate during a primary election and if defeated in the primary, changing his registration to independent for the purpose of seeking the same office at the regular election for which he was defeated in the primary election~~]. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175 and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than ***one hundred twenty (120)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to ***(6)*** [~~(7)~~], and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the registry of election finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled, who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, ***or if there are fewer candidates than there are offices to be filled,*** the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than sixty-eight (68) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. ***If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election, candidates shall not file petitions of nomination to fill the vacancy with the county clerk, but shall seek election by write-in vote. If no person is elected to the office by write-in vote at the regular election, the vacancy in office shall be filled temporarily by appointment by the officer or body designated by law to fill the appointment.*** [~~If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election and there are no remaining candidates running to fill the office for which a vacancy has occurred, the office shall remain vacant until after the regular election and if no person is elected to the office by write-in ballots at the regular election, the vacancy in office shall be filled temporarily by the officer or body designated by law to fill the appointment.~~]

Section 2. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any ***eligible*** person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. ***Any candidate for city office who is defeated in a partisan primary election shall be prohibited from seeking election to the same office in the regular election by conducting a write-in campaign and shall be ineligible to have his name placed on a voting machine or upon a special ballot by write-in vote.*** Any voter utilizing a special ballot may write in a vote for any ***eligible*** person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct ***the*** [~~such~~] voter on how to cast a write-in vote.

(3) This provision ***shall*** [~~does~~] not apply to elections for President and Vice President of the United States where the vote is cast for presidential electors rather than the candidate[~~, nor does it apply to elections for municipal offices conducted pursuant to KRS 83A.170~~].

Section 3. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, and 118.375.

***(2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.***

***(3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:***

***(a) Vacancies in candidacy shall be governed by KRS 118.105;***

***(b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and***

***(c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.***

***(4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:***

***(a) If the vacancy occurs not less than one hundred five (105) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and***

***(b) If the vacancy occurs on or after the one hundred fifth day before a May primary, the election to fill the unexpired term shall be held in the manner prescribed in Section 152 of the Kentucky Constitution; and***

***(c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b) 7.*** [~~The election to fill the unexpired term of any city office shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.~~]

Section 4. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 ***or 83A.050*** required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition signed by at least two (2) registered voters in the city. Each voter may sign [~~a slated petition up to the number of offices to be filled for a particular position or may sign~~] individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, [~~then~~] he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ______________________ request that the name of ______________________ be placed before the voters of the city as that of an applicant for nomination for the office of ______________________ at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

| Name | Street Address | Social Security Number |
|---|---|---|
| ______________ | ______________ | ______________ |
| ______________ | ______________ | ______________ |
| ______________ | ______________ | ______________" |

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. [~~No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.~~]

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office. If, in accordance with the provisions of this section ***or KRS 83A.045(2)(b)***, a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the registry of election finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized[~~,~~] that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind[~~,~~] nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election ***shall be*** [~~are~~] qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election ***shall be*** [~~is~~] applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 5. KRS 83A.175 is amended to read as follows:

(1) ***The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in this section when,*** [~~Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.~~

~~(2)~~ ~~If~~] in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are [~~such~~] offices to be filled, or ***when*** [~~if~~] a ***city of the*** fourth to sixth class [~~city~~] has not conducted a primary election pursuant to KRS 83A.045[~~; the election to fill the regular term shall be conducted in the manner prescribed by this section~~].

***(2)***[~~(3)~~] Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, [~~then~~] he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ______________________ request that the name of ______________________ be placed before the voters of the city as that of a candidate for election for the office of ______________________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

| Name | Street Address | Social Security Number |
|---|---|---|
| ______________ | ______________ | ______________ |
| ______________ | ______________ | ______________ |
| ______________ | ______________ | ______________" |

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. [~~No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall not be counted as valid on any petition.~~]

***(3)***[~~(4)~~] The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

***(4)***[~~(5)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

***(5)***[~~(6)~~] If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

***(6)***[~~(7)~~] If, after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

Section 6. KRS 83A.100 is amended to read as follows:

(1) The legislative body of a city may by ordinance divide the city into the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance.

(2) The populations of wards shall be reviewed as necessary to insure that populations are as nearly equal as practicable, but [~~in no event shall~~] the populations of wards ***shall*** be reviewed for equalization ***at least as*** [~~less~~] often ***as*** [~~than~~] each regular federal census.

(3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur within two hundred forty (240) days preceding a regular election.

(4) If a city is divided into wards, legislative body members shall be nominated and elected in the following manner:

(a) Members shall be elected in the regular November election at-large but each candidate shall reside in the ward he seeks to represent and shall be elected in such a manner that each ward is equally represented on the legislative body. The names shall be presented in the election to show for which ward each candidate is seeking election and voters shall be instructed to "vote for one candidate in each ward." The candidate receiving the highest number of votes cast in each ward shall be deemed to be elected from such ward.

(b) Persons seeking the nomination of a political party for the office of legislative body member where a primary election is required for ***the*** [~~such~~] political party, shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent.

***(c) Notwithstanding any statute to the contrary, if a vacancy in candidacy occurs prior to a primary or regular election after filing deadlines have passed that causes a ward to not be represented by any candidate for city legislative body, new candidates shall be permitted to file papers of candidacy with the county clerk and their names shall be placed on the ballot as seeking election from that ward. Nothing in this section shall prohibit write-in votes pursuant to KRS 117.265.***

Section 7. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2), [~~and~~] (3) ***and (4)*** of this section, the county clerk of each county shall cause to be printed for the voting machines and on the special ballots for the regular election the names of the following persons:

(a) - Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(f) Successful nominees of all nonpartisan primaries which shall have been conducted;

(g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;

(h) ***If*** [~~Where~~] a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If ***the*** [~~such~~] ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames;

(i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, ***if*** [~~where~~] the certificate of nomination of ***the*** [~~such~~] electors has been filed with the Secretary of State within the time prescribed in this chapter; and

(j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210.

(2) ***Any candidate for city office who is defeated in a partisan primary election shall be prohibited from seeking election to the same office in the regular election and shall be ineligible to have his name placed on ballot labels or special ballots for the regular election.***

***(3)*** Candidates for members of boards of education shall have their names printed on ballot labels and special ballots for the regular election only after filing as provided in KRS 160.220.

***(4)***[~~(3)~~] Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and special ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

***(5)***[~~(4)~~] No county clerk shall knowingly cause to be printed, upon the ballot labels or special ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

***(6)***[~~(5)~~] The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

*(7)*[~~(6)~~] ***When*** [~~Whenever~~] a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.

Section 8. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the following provisions shall apply:

(a) The legislative body of the city shall fill the vacancy within thirty (30) days.

(b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.

(c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself.

(d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.

(3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.

(4) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular meeting of the city legislative body.

(8) Pursuant to KRS 118.305*(7)*[~~(6)~~], if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the secretary of state of the vacancy.

(9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

(10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

Section 9. KRS 118.995 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 118.136 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or confined in the county jail for not less than thirty (30) days nor more than ninety (90) days, or both.

(2) If the secretary of state violates any of the provisions of subsection (4) of KRS 118.215, he shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(3) Any person who violates subsection (5) of KRS 118.176 shall be fined not less than twenty dollars ($20) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than one (1) month nor more than six (6) months, or both, and may also be proceeded against for contempt.

(4) If any county clerk violates any of the provisions of subsection ***(5)*** [~~(4)~~] of KRS 118.305 he shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

The Committee Substitute to **HB 15** is as follows:

**HB 15,** AN ACT relating to city elections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 83A.045 is amended to read as follows:

(1) Partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than ***one hundred nineteen (119)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

(c) A candidate for city office ***who is defeated*** in a partisan ***primary*** election shall be ***ineligible as a candidate for the same office in the regular election*** [~~prohibited from being a registered party candidate during a primary election and if defeated in the primary, changing his registration to independent for the purpose of seeking the same office at the regular election for which he was defeated in the primary election~~]. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175 and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than ***one hundred nineteen (119)*** [~~ninety (90)~~] days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forego conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than sixty-eight (68) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which ***the*** [~~such~~] papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to ***(6)*** [~~(7)~~], and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the registry of election finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled, who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, ***or if there are fewer candidates than there are offices to be filled,*** the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than sixty-eight (68) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. ***If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election, candidates shall not file petitions of nomination to fill the vacancy with the county clerk, but shall seek election by write-in vote. If no person is elected to the office by write-in vote at the regular election, the vacancy in office shall be filled temporarily by appointment by the officer or body designated by law to fill the appointment*** [~~If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election and there are no remaining candidates running to fill the office for which a vacancy has occurred, the office shall remain vacant until after the regular election and if no person is elected to the office by write-in ballots at the regular election, the vacancy in office shall be filled temporarily by the officer or body designated by law to fill the appointment~~].

***(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.***

Section 2. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any ***eligible*** person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. ***Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.*** Any voter utilizing a special ballot may write in a vote for any ***eligible*** person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct ***the*** [~~such~~] voter on how to cast a write-in vote.

(3) This provision ***shall*** [~~does~~] not apply to elections for President and Vice President of the United States where the vote is cast for presidential electors rather than the candidate[~~; nor does it apply to elections for municipal offices conducted pursuant to KRS 83A.170~~].

Section 3. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, and 118.375.

(2) ***Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.***

***(3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:***

***(a) Vacancies in candidacy shall be governed by KRS 118.105;***

***(b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and***

***(c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.***

***(4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:***

***(a) If the vacancy occurs not less than one hundred thirty-four (134) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and***

***(b) If the vacancy occurs on or after the one hundred thirty-fourth day before a May primary, the election to fill the unexpired term shall be held in the manner prescribed in Section 152 of the Kentucky Constitution; and***

***(c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b) 7.*** [~~The election to fill the unexpired term of any city office shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.~~]

Section 4. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 ***or 83A.050*** required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition signed by at least two (2) registered voters in the city. Each voter may sign [~~a slated petition up to the number of offices to be filled for a particular position or may sign~~] individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, [~~then~~] he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ____________________ request that the name of ____________________ be placed before the voters of the city as that of an applicant for nomination for the office of ____________________ at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

| Name | Street Address | Social Security Number |
|---|---|---|
| | | |
| | | |
| | | ” |

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. [~~No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.~~]

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office. If, in accordance with the provisions of this section ***or KRS 83A.045(2)(b),*** a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the registry of election finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized[~~,~~] that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind[~~,~~] nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election ***shall be*** [~~are~~] qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election ***shall be*** [~~is~~] applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 5. KRS 83A.175 is amended to read as follows:

(1) ***The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in this section when,*** [~~Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this chapter, KRS Chapters 116 to 121, and Section 152 of the Constitution of Kentucky.~~

~~(2)~~ ~~If~~] in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are [~~such~~] offices to be filled, or ***when*** [~~if~~] a ***city of the*** fourth to sixth class [~~city~~] has not conducted a primary election pursuant to KRS 83A.045[~~, the election to fill the regular term shall be conducted in the manner prescribed by this section~~].

***(2)***[~~(3)~~] Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, [~~then~~] he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of _________________________ request that the name of _________________________ be placed before the voters of the city as that of a candidate for election for the office of _________________________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

| Name | Street Address | Social Security Number |
|---|---|---|
| | | |
| | | |
| | | ” |

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. [~~No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall not be counted as valid on any petition.~~]

***(3)***[~~(4)~~] The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

***(4)***[~~(5)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

***(5)***[~~(6)~~] If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

***(6)***[~~(7)~~] If, after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

Section 6. KRS 83A.100 is amended to read as follows:

(1) The legislative body of a city may by ordinance divide the city into the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance.

(2) The populations of wards shall be reviewed as necessary to insure that populations are as nearly equal as practicable, but [~~in no event shall~~] the populations of wards ***shall*** be reviewed for equalization ***at least as*** [~~less~~] often ***as*** [~~than~~] each regular federal census.

(3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur within two hundred forty (240) days preceding a regular election.

(4) If a city is divided into wards, legislative body members shall be nominated and elected in the following manner:

(a) Members shall be elected in the regular November election at-large but each candidate shall reside in the ward he seeks to represent and shall be elected in such a manner that each ward is equally represented on the legislative body. The names shall be presented in the election to show for which ward each candidate is seeking election and voters shall be instructed to "vote for one candidate in each ward." The candidate receiving the highest number of votes cast in each ward shall be deemed to be elected from such ward.

(b) Persons seeking the nomination of a political party for the office of legislative body member where a primary election is required for ***the*** [~~such~~] political party, shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent.

Section 7. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2)***,*** [~~and~~] (3) ***and (4)*** of this section, the county clerk of each county shall cause to be printed for the voting machines and on the special ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(f) Successful nominees of all nonpartisan primaries which shall have been conducted;

(g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;

(h) ***If*** [~~Where~~] a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If ***the*** [~~such~~] ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames;

(i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, ***if*** [~~where~~] the certificate of nomination of ***the*** [~~such~~] electors has been filed with the Secretary of State within the time prescribed in this chapter; and

(j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210.

(2) ***Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.***

***(3)*** Candidates for members of boards of education shall have their names printed on ballot labels and special ballots for the regular election only after filing as provided in KRS 160.220.

***(4)***[~~(3)~~] Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and special ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

***(5)***[~~(4)~~] No county clerk shall knowingly cause to be printed, upon the ballot labels or special ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

***(6)***[~~(5)~~] The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

***(7)***[~~(6)~~] ***When*** [~~Whenever~~] a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.

Section 8. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the following provisions shall apply:

(a) The legislative body of the city shall fill the vacancy within thirty (30) days.

(b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.

(c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself.

(d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.

(3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.

(4) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular meeting of the city legislative body.

(8) Pursuant to KRS 118.305*(7)*[~~(6)~~], if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the secretary of state of the vacancy.

(9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

(10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

Section 9. KRS 118.995 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 118.136 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or confined in the county jail for not less than thirty (30) days nor more than ninety (90) days, or both.

(2) If the secretary of state violates any of the provisions of subsection (4) of KRS 118.215, he shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(3) Any person who violates subsection (5) of KRS 118.176 shall be fined not less than twenty dollars ($20) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than one (1) month nor more than six (6) months, or both, and may also be proceeded against for contempt.

(4) If any county clerk violates any of the provisions of subsection ***(5)*** [~~(4)~~] of KRS 118.305 he shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

The Committee on Elections and Constitutional Amendments reported **SB 72**, **SB 143**, **SB 145** with Committee Amendment attached thereto, **SB 146** and **SB 147** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**SB 72**, AN ACT relating to campaign finance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) ***Except as provided in KRS 121.180(10),*** the solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) No candidate, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of one hundred dollars ($100), and all such contributions in excess of one hundred dollars ($100) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, or committee or anyone acting for the candidate, shall accept a contribution of more than four thousand dollars ($4,000) from any person, permanent committee, or contributing organization in any one (1) election. No person, permanent committee or contributing organization shall contribute more than four thousand dollars ($4,000) to any one (1) candidate, or anyone acting for the candidate, in any one (1) election.

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the registry of election finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than four thousand dollars ($4,000) to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than six thousand dollars ($6,000) to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year.

(11) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(12) No candidate for the office of governor shall make a personal loan to his committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000).

(13) No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.

(14) No candidate for any state, county, city or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No candidate for governor or the immediate family thereof may loan any money, service or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate, except to the extent of a total of fifty thousand dollars ($50,000).

Section 2. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The secretary of state and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or

permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the state treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office ***or may donate such funds to any recognized charitable, non-profit, or educational institution.***

**SB 143,** AN ACT relating to financial disclosure.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.730 is amended to read as follows:

Each person subject to KRS 61.710 to 61.780, while holding office or employment, shall file with the Kentucky Registry of Election Finance, by March 15 of each year, the written report required by KRS 61.740. Each person who is a candidate for any of the subject offices shall file with the Registry of Election Finance, ***by March 15 of the year in which he becomes a candidate*** [~~within ten (10) days after the filing deadline~~], the report required by KRS 61.740. Nothing in KRS 61.710 to 61.780 shall be construed to require the filing of more than one (1) complete report for each subject individual each year, except that each individual shall, in writing, notify the Registry of Election Finance of the acquisition or termination of any interests subject to the requirements of KRS 61.710 to 61.780 by January 1 of each year.

**SB 145,** AN ACT relating to campaign finance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) No candidate, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of one hundred dollars ($100), and all such contributions in excess of one hundred dollars ($100) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, or committee or anyone acting for the candidate, shall accept a contribution of more than four thousand dollars ($4,000) from any person, permanent committee, or contributing organization in any one (1) election. No person, permanent committee or contributing organization shall contribute more than four thousand dollars ($4,000) to any one (1) candidate, or anyone acting for the candidate, in any one (1) election.

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than four thousand dollars ($4,000) to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than six thousand dollars ($6,000) to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year.

(11) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(12) No candidate for the office of Governor shall make a personal loan to his committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000).

(13) No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.

(14) No candidate for any state, county, city or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No candidate for Governor or the immediate family thereof may loan any money, service or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate, except to the extent of a total of fifty thousand dollars ($50,000).

***(17) No candidate, committee, except a political issues committee, or contributing organization, nor anyone on his or its behalf, shall accept a contribution from a corporation, directly or indirectly.***

***(18) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.***

The Committee Amendment No. 1 to **SB 145** is as follows:

Amend printed copy of GA Copy of **SB 145** on page 5, line 11, after the word "***shall***" and before "***accept***" by inserting the word "***knowingly***".

**SB 146**, AN ACT relating to campaign finance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of ***twenty-five*** [~~one hundred~~] dollars ***($25)*** [~~($100)~~], and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution

or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of ***twenty-five*** [~~one hundred~~] dollars ***($25)*** [~~($100)~~], and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates,

until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The secretary of state and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the state treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office.

**SB 147**, AN ACT relating to campaign finance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) ***(a)*** All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

***(b) Unopposed candidates for nonpartisan judicial office shall not be required to make any reports when a primary election has not been held for that office, but shall make reports required by KRS 121.180(2) and 121.180(8) for the regular election in November.***

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The Secretary of State and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the state treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office.

Representative P. Richardson moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 55. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes James J. Coleman upon being named a lifetime member of the Kentucky Industrial Development Council.

As a former president, secretary/treasurer and charter member of the council, Mr. Coleman has been dedicated to the overall economic development of Kentucky. Along with the Kentucky and other agencies, Mr. Coleman and the industrial development staff have provided community leaders with technical advice, helping to maintain and attract economic growth in local communities.

This prestigious body joins Representative Paul W. Richardson in recognizing James Coleman for this much deserved honor.

Representative Akerson moved the adoption of the following **HR 192**:

**HR 192**, A RESOLUTION honoring the Hurstbourne Christian Church Cub Scout Pack 8, Den 6.

WHEREAS, the Hurstbourne Christian Church Cub Scout Pack 8, Den 6 are first year Webelos; and

WHEREAS, their oath is "We'll be loyal scouts;" and

WHEREAS, from the first two letters of the words in this oath, the group derives its name, Webelos; and

WHEREAS, these first year Webelos at Hurstbourne Christian Church are devoted to earning their Webelos' Badge and Arrow of Light;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives honors the Hurstbourne Christian Church first year Webelos.

Section 2. That this honorable body praises the example the Hurstbourne Christian Church first year Webelos are setting for all 4th and 5th grade Kentuckians.

Section 3. That the Clerk of the House of Representatives transmit a copy of this resolution to Webelos, Cub Scout Pack 8, Den 6, Hurstbourne Christian Church, 601 Nottingham Parkway, Louisville, Kentucky.

**HR 192** was adopted by voice vote.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 5, Representative Brown; **HB 256**, Representative Brown; **HB 260**, Representative Ackerson; **HB 357**, Representative L. Clark; **HB 378**, Representative O'Brien; **HB 451**, Representative Gregory; **HB 565**, Representative Casebier; **HB 598**, Representative Blevins; **HB 632**, Representative Crupper; **HB 657**, Representative Freibert; **HB 664**, Representative Lile; **HB 667**, Representative P. Richardson; **HB 687**, Representative Casebier; **HB 697**, Representative Mack; **HB 698**, Representatives K. Harper, Freibert; **HB 747**, Representatives Casebier, Altman; **HB 802**, Representative Casebier; **HB 808**, Representatives Farrow, Long, Hourigan; **HB 810**, Representative Scorsone; **HB 814**, Representatives L. Clark, Curd; **HB 885**, Representatives Curtsinger, Heleringer, Riner; **HCR 166**, Representatives Noland, Lyne, Yates.

Representative Heleringer requested that he be withdrawn as co-sponsor of **HB 379**. Agreed.

Representative Geveden moved that **HB 785** be withdrawn. Agreed.

Representative Maggard moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **HB 100, HB 102, HB 395, HB 503, HB 581, HB 599, SB 57, SB 166, SB 213, SB 214**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 399**. Agreed.

Representative T. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Jones moved that he be recorded as voting "yea" on **HB 425**. Agreed.

Representative Kerr moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 102, HB 100, HB 503, SB 213**. Agreed.

Representative Adkins moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Adkins moved that he be recorded as voting "yea" on **HB 102**. Agreed.

### Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 378**, by Representative Blevins:

Amend printed copy of **HB 378** on page 2, line 21, by inserting the following after "***interests.***": "***Members appointed by the Governor when the Senate is not in session shall have the authority to carry out the provisions of this Act prior to Senate approval of their appointments.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 520**, by Representative B. Smith:

Amend printed copy of HCS for **HB 520** on page 7, after line 15, by inserting the following:

"***(6) For any employee of the Transportation Cabinet who performs, as part of his job description, real estate appraisals for which certification is required, the Transportation Cabinet shall bear the costs of initial application, examination and annual renewal.***"

Floor Amendment No. 1 to **HB 522**, by Representative Clarke:

Amend printed copy of **HB 522** on page 1, line 19, by deleting the word "***paid***" and removing the brackets and strike through the word "computed";

Line 20, by inserting after the word "tax" the word "***paid***" and by bracketing and striking through the word "computed".

Floor Amendment No. 5 to the House Committee Substitute to **SB 68**, by Representative Burch:

Amend printed copy of HCS for **SB 68** on page 16, line 7, after the word "***beds***" insert "***, hospices***".

Floor Amendment No. 6 to the House Committee Substitute to **SB 68**, by Representative Burch:

Amend printed copy of HCS for **SB 68** on page 15, line 23, by inserting the following after the word "***hospital***":

"***or the following health services provided on site in an existing health facility when the cost is less than one million dollars ($1,000,000): acute care, psychiatric care, all levels of neonatal care, intensive care/coronary care units, surgical services, transplant centers, magnetic resonance imaging, lithotripters, radiation therapy, cardiac catheterization, open heart surgery, new technological developments, emergency medical services, physical rehabilitation, and chemical dependency. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, family care homes or hospices***"; and

And on page 16, line 8, by inserting the following:

"***(3) Nothing in this chapter shall be construed to exempt skilled nursing beds, nursing home beds, intermediate care beds, personal care beds and hospices from the provisions of this chapter that relate to the issuance of a certificate of need.***"

And on page 16, line 9, by changing "***(3)***" to "***(4)***".

Floor Amendment No. 2 to **SB 88**, by Representative K. Harper:

Amend printed copy of **SB 88** on page 10, line 1, by inserting the subsection "***(1)***" preceding the word "***Where***".

And on page 10, between lines 21 and 22, by adding the following new subsection:

"***(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the declaration of a qualified patient on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a qualified patient.***

***(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member or employee who refuses to comply with the declaration of a qualified patient.***".

On page 10, line 1, by inserting the subsection "***(1)***" preceding the word "***Where***".

And on page 10, between lines 21 and 22, by adding the following new subsection:

"***(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the declaration of a qualified patient on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a qualified patient.***

***(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification***

***to any physician, nurse staff member or employee who refuses to comply with the declaration of a qualified patient.".***

The Clerk announced the following meetings:

The Committee on Business Organizations and Professions, 1:15 p.m., March 6, 1990.

The Committe on Health and Welfare, upon adjournment, March 6, 1990.

The Committee on Agriculture and Small Business, 8:30 a.m., March 6, 1990.

The Committee on Energy, 9:00 a.m., March 6, 1990.

### Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 6, 1990.

On the roll call the vote was yeas 84—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Brown, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 2—LeMaster, Lile.

The motion to adjourn was adopted.

## TUESDAY, MARCH 6, 1990

## FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. Charles Elliott, King Solomon Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 5, 1990 be dispensed with and the same approved. Agreed.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 57, HB 83, HB 84, HB 149, HB 237, HB 268, HB 270, HB 317, HB 344, HB 404, HB 433** and **HB 532** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:05 p.m.)

**HB 57, HB 83, HB 84, HB 149, HB 237, HB 268, HB 270, HB 317, HB 344, HB 404, HB 433** and **HB 532** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Senate Message

Announcing the passage of **SB 42, SB 180, SB 210, SB 217, SB 249, SB 265, SB 271, SB 275, SB 280, SB 286, SB 287, SB 311, SB 340, SJR 44, SCR 97, HB 253** with Senate Amendment, **HB 373** with Senate Amendment, **HB 417** with Senate Amendment, **HB 9, HB 34, HB 70, HB 81, HB 214, HB 223, HB 289, HB 294, HB 335, HB 347, HB 365, HB 386, HB 389, HB 398** and **HB 487**.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 239**.

Banking and Insurance: **SB 315**.

Economic Development and Tourism: **SCR 73**.

Education: **SB 245, SB 312**.

Elections and Constitutional Amendments: **SB 304**.

State Government: **SCR 71**.

Transportation: **SB 306, SJR 85**.

### Report of Committees

The Committee on Rules reported **HB 146, HB 550, HB 626, HB 697, HB 700, HB 123, HB 189** and **SB 78** has been posted for passage in Orders of the Day, March 7, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, March 7, 1990: **HB 188, HB 501**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 492**.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Education: **HB 728, HB 715, HB 898, HCR 158, SB 312**.

Health and Welfare: **HB 597**.

## Report of Committees

The Committee on Agriculture and Small Business reported **HB 771** with Committee Amendment attached thereto, and **HB 570** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 771**, AN ACT relating to grain.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 251.440 is amended to read as follows:

***(1)*** Application for license shall set forth the name of the applicant, its principal officer, if a corporation, or the active members of a partnership if a partnership, and the location or locations of the principal office or place of business and the locations in this state at which applicant proposes to engage in this business. Application ***shall*** [~~must~~] be accompanied by a bond as set forth in KRS 251.451. ***The*** [~~Such~~] bond shall run to the state of Kentucky and be for the benefit of all persons storing grain in ***the*** [~~such~~] warehouse. It shall be conditioned upon ***the*** [~~such~~] warehouseman carrying combustion, fire, lightning, and tornado insurance sufficient to cover loss upon all stored grain in ***the*** [~~such~~] warehouse, and the delivery of all stored grain or payment of the value thereof upon the surrender of the warehouse receipt or scale ticket, and upon the faithful performance by the warehouseman of all provisions of law relating to the storage and handling of grain by the warehouseman and the regulations of the Kentucky department of agriculture relative thereto.

***(2) The department may refuse to issue a license to any applicant or revoke the existing license of one (1) who furnishes false or misleading information or conceals a material fact on the application or other supporting documents; or has been convicted of fraud or deceptive practice; or is currently adjudicated incompetent by a court of competent jurisdiction; or for other good cause shown. Any individual so denied a license for the above given reasons shall be given written notice within thirty (30) working days of receipt of application. Any applicant who is denied a license and feels aggrieved, may request a hearing by writing to the Commissioner of Agriculture.***

***(3) All applications for warehouseman license shall be accompanied by a current financial statement or a letter of credit from a financial institution.***

Section 2. KRS 251.451 is amended to read as follows:

(1) Each warehouseman shall file with the department a surety bond issued by a surety company authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the Commissioner as trustee. ***A warehouseman may file with the department, in lieu of a surety bond, a certificate of deposit payable to the Commissioner, as trustee, or an irrevocable letter of credit on forms prescribed by the Commissioner. The principal amount of the certificate or letter of credit shall be the same as that required for a surety bond under this section, and the interest thereon, if any, shall be made payable to the purchaser.*** The amount of the bond for a warehouseman shall be established by rule of the department, but in no event shall the sum be less than twenty-five cents (25) per bushel of the total maximum bushel capacity of the warehouse or ten thousand dollars ($10,000), whichever is greater.

(2) The bond shall be conditioned on the faithful performance of duties as an operator and the full and unreserved compliance with the laws of this state and the rules of the department in relation thereto, so that the depositors holding warehouse receipts, contracts or other documented evidence of stored grain may receive the benefit of ***the*** [~~such~~] bond. The aggregate liability of the surety to all depositors shall in no event exceed the sum of the bond. Neither the issuance of warehouse receipts by a warehouseman to himself for grain owned in whole or in part by him, the commingling of grain owned by the warehouseman with grain stored for others, or any violation by a warehouseman of KRS 251.420 to 251.510 or of the rules and regulations issued by the department [~~hereunder~~] shall constitute a defense in any action brought upon any bond, and all such bonds shall so provide. Maximum capacity of a warehouse shall be determined by dividing the cubic volume of all bins by two thousand one hundred fifty and forty-two one hundredths (2,150.42) cubic inches. ***The*** [~~Such~~] bond ***shall*** [~~must~~] be kept in force at all times while the operator is conducting a warehouse. Failure to keep the bond in force ***shall be*** [~~is~~] cause for revocation of the license and subjects the warehouseman to the criminal penalty provided in KRS 251.990. Each bond shall contain a provision that it may not be cancelled by either the surety or the principal except upon sixty (60) days' notice in writing to the department at its offices in Frankfort. The notice ***shall not*** [~~will in no way~~] affect the liability accrued or that which may accrue under the bond before the expiration of the sixty (60) days. The department may require additional bond where the assets of any warehouseman appear insufficient, when compared to his storage obligations, or to meet the bond requirements of the United States or any agency or corporation controlled by the United States when they have a contract for storage with the warehouseman. The additional bond shall be a dollar amount equal to the insufficiency. Failure to post such additional bond ***shall constitute*** [~~constitutes~~] grounds for suspension or revocation of a license issued under KRS 251.430.

Section 3. KRS 251.610 is amended to read as follows:

For the purposes of KRS 251.410, 251.430, 251.440, 251.451, 251.490 and 251.600 to 251.740, unless the context requires otherwise:

(1) "Board" means the governing body of the Kentucky Grain Insurance Corporation;

(2) "Claimant" means any producer [~~or person~~] who is a participant in the grain insurance program, and:

(a) Possesses warehouse receipts covering grain owned or stored by the ***licensed*** grain dealer or ***licensed*** warehouseman ***which was produced in Kentucky, except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky***;

(b) Has written evidence of ownership ***of grain produced in Kentucky***, other than warehouse receipts, disclosing a storage obligation of a ***licensed*** grain dealer or ***licensed*** warehouseman, including scale tickets, settlement sheets and ledger cards ***except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky***;

(c) Has lent money to a ***licensed*** grain dealer or ***licensed*** warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued;

(d) Has surrendered warehouse receipts as a part of a ***sale of grain produced in Kentucky with a licensed*** [~~grain sale transaction with the~~] grain dealer or ***licensed*** warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; or

(e) Possesses written evidence of the sale of grain ***produced in Kentucky*** to a failed ***licensed*** grain dealer or failed ***licensed*** grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar grain delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the Department of Agriculture in accordance with the Grain Storage Establishment License Act and KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740***, except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky***;

(3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts;

(4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency or other states as may be reasonable and proper to carry out the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740;

(5) "Commissioner" means the Commissioner of the Department of Agriculture;

(6) "Corporation" means the Kentucky Grain Insurance Corporation;

(7) "Department" means the Department of Agriculture of the Commonwealth of Kentucky;

(8) "Failure" means:

(a) An inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(b) A declaration of insolvency;

(c) A revocation of license and leaving of outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license;

(9) "Fund" means the Kentucky Grain Insurance Fund established by the corporation pursuant to KRS 251.640;

(10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department;

(11) "Grain assets" means:

(a) All grain owned or stored by said failed grain dealer or failed warehouseman, including grain in transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;

(b) Redeposited grain;

(c) Proceeds from sale of grain due or to become due;

(d) Equity, less any secured financing directly associated therewith, in assets in commodity exchange grain margin accounts;

(e) Moneys due or to become due, less any secured financing directly associated therewith, from any future contracts on any recognized commodity exchange;

(f) Other unencumbered funds, property or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of ***the*** [~~such~~] funds, property, or equity in ***the*** [~~such~~] funds or property as additional collateral for an antecedent debt; or

(g) Other unencumbered funds, property, or equity in assets;

(12) "Grain dealer" means any person engaged in the business of buying grain from producers thereof for resale, milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale, milling or processing;

(13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner;

(14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States Warehouse Act that has entered into a cooperative agreement with the department;

(15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with, or as an incident to, a grain milling operation and whose total purchases of grain during any fiscal year do not exceed two hundred fifty thousand dollars ($250,000);

(16) "Participant in the grain insurance program" means any producer [~~or person~~] who has contributed to the grain fund pursuant to KRS 251.640 and has never requested a refund, or has entered the program pursuant to KRS 251.642;

(17) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;

(18) "Producer" or "grain producer" means the owner, tenant or operator of land ***in Kentucky*** who has an interest in and receives all or any part of the proceeds from the sale of the grain produced ***on land in Kentucky, except that a producer who establishes by clear and convincing evidence that he has paid an assessment authorized by KRS 251.640 shall not be required to establish that the grain was produced in Kentucky*** [~~thereon~~];

(19) "Program" means the Kentucky grain insurance program;

(20) "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended;

(21) "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after July 13, 1984, and adjudicated valid by the department, less all credits and offsets; and

(22) "Warehouse receipt" means:

(a) A warehouse receipt issued under the Public Grain Warehouse and Warehouse Receipts Act in accordance with the Uniform Commercial Code; ***or***

(b) A warehouse receipt issued under the United States Warehouse Act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund.

Section 4. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky Grain Insurance Corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the Commissioner of the Department of Agriculture, who shall serve as president; the Attorney General, who shall serve as secretary; the State Treasurer, who shall serve as treasurer; the State Auditor; two (2) representatives from the Kentucky Feed and Grain Association selected by the Commissioner; two (2) representatives from the Kentucky Farm Bureau Federation selected by the Commissioner; and two (2) representatives from the Kentucky National Farmers Organization selected by the Commissioner. The Commissioner of Agriculture, Attorney General, State Treasurer, and State Auditor may each designate a person to represent him. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the Commissioner from which the Commissioner shall make his appointments. ***The appointed members of the board shall serve until June 30, 1992. Thereafter, the appointed members of the board shall serve for a term of four (4) years or until their successor is appointed and qualified.*** Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the Department of Agriculture, the Attorney General, and the State Auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky Grain Insurance Fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the Commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

Section 5. KRS 251.640 is amended to read as follows:

(1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of grain shall be assessed one-half cent (1/2) per bushel on all ***marketed*** grain ***which is produced in Kentucky*** [~~marketed~~] and provide for the collection of the same for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created. [~~However, grain~~] Producers ***of grain produced*** [~~from~~] outside of Kentucky shall not be subject to the assessment if they certify to the grain dealer or warehouseman that ***the grain was not produced in Kentucky*** [~~they are out-of-state producers~~]. The department shall establish the form to be completed, signed and given to the grain dealer or warehouseman in order to obtain the exemption. The information required by the department shall

include at a minimum, the date, the producer's name, business address, phone number, quantity and identify the grain. A copy of ***the*** [~~such~~] form shall be kept as a part of the books and records by the grain dealer or warehouseman and in addition a copy of such form shall be supplied to the department. [~~A grain producer from outside of Kentucky may be subject to the assessment and therefore awarded all the protection thereof if he so chooses and meets the requirements of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740. The Kentucky grain insurance corporation may enter into a reciprocal agreement with a contiguous state having a similar program.~~]

(2) Upon the establishment of the Kentucky Grain Insurance Corporation, the Commissioner shall notify forthwith by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative from the purchase price of the grain. The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which such grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain, which shall clearly indicate the producer assessment, shall at all times be open for inspection by the Commissioner of Agriculture or his duly authorized agents during regular business hours. The Commissioner or his agents may take such steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.

(3) The assessment shall continue until the fund is more than three million dollars ($3,000,000). If and when the fund is more than three million dollars ($3,000,000), no fees shall be assessed by the department until such time as the amount in the fund drops below three million dollars ($3,000,000). ***If the fund is more than three million dollars ($3,000,000), no laterthan April 30 of each year, the board shall meet and certify the fund is in excess of three million dollars ($3,000,000). Upon this certification, no assessment shall be assessed or collected for that licensed year. If at any time after the board has certified the three million dollar ($3,000,000) amount, the board receives notification of the fund being less than two million dollars ($2,000,000), the board shall within thirty (30) days certify that the fund has less than two million dollars ($2,000,000), and the assessment shall be reinstated. Upon notification from the board, the department shall within thirty (30) days reinstate the one-half cent (1/2) assessment fee.***

(4) Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.

(5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, the grain insurance corporation may make application to the Franklin Circuit Court for an order enjoining such acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

(6) The assessments by the department pursuant to this section are in addition to any other fees or assessments required by law.

Section 6. KRS 251.650 is amended to read as follows:

***(1)*** All assessments by the department pursuant to KRS 251.640 shall be held by the corporation in trust in the Kentucky Grain Insurance Fund for carrying out the purposes of KRS 251.410, 251.430, 251.440, 251.441, 251.490, and 251.600 to 251.740. These funds shall be invested and reinvested in U.S. treasury obligations at the discretion of the corporation, and the interest from these investments shall be deposited to the credit of the fund and shall be available for the same purposes as all other money deposited in the fund. The money in the fund shall not be available for any purpose other than the payment of claims pursuant to KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, and shall not be transferred to any fund other than the grain indemnity trust fund, which is hereby created. This limiting and nontransferability provision shall not be severable from the whole of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740; and if such provision is held invalid, repealed or substantially amended, KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740 shall immediately become invalid, and to this end, such provision is declared to be nonseverable.

***(2) Notwithstanding the provisions of subsection (1) of this section, the board may authorize the investment of funds for the Kentucky Grain Insurance Fund through the Kentucky Commission for Investments in any guaranteed security or other guaranteed investment recommended by the commission if the board determines such recommendation would maximize the interest or income to the fund.***

***(3) The board is authorized to pay from the interest or income produced by the investing of the Kentucky***

***Grain Insurance Fund the ordinary management and investment fees assessed pursuant to statute or administrative regulation.***

Section 7. KRS 251.670 is amended to read as follows:

(1) Within ninety (90) days of the board's approval of a valid claim, the board shall, in accordance with the provisions of this section, compensate from the grain indemnity trust fund any claimant who has incurred a financial loss due to a failure of a grain dealer or warehouseman.

(2) Any claimant who has incurred a financial loss due to a failure of a ***licensed*** grain dealer shall be entitled to be compensated for eighty percent (80%) of a valid claim, to a maximum of one hundred thousand dollars ($100,000), with moneys from the Kentucky Grain Insurance Fund***, provided that the claim is brought within one (1) year from the time the claimant receives actual notice of the grain dealer's failure***. To the maximum extent that funds are or may be made available for the purpose, the remaining balance of the claim shall be paid by the board from the assets and other security of the failed grain dealer, provided that any claimant who has incurred a financial loss due to the failure of a grain dealer and who has surrendered a warehouse receipt for payment shall be compensated for one hundred percent (100%) of a valid claim.

(3) Any claimant who has incurred a financial loss due to a failure of a ***licensed*** grain warehouseman shall be entitled to be compensated for eighty-five percent (85%) of a valid claim with moneys from the Kentucky Grain Insurance Fund***, provided that the claim is brought within one (1) year from the time the claimant receives actual notice of the warehouseman's failure***. To the maximum extent that funds are or may be made available for such purpose, the remaining balance of such claim shall be paid by the board from the assets and other security of the failed grain warehouse, provided that any claimant who has incurred a financial loss due to the failure of a grain warehouse and who has surrendered a warehouse receipt for payment shall be compensated for one hundred percent (100%) of a valid claim.

Section 8. KRS 251.720 is amended to read as follows:

(1) Any person engaged in the business of buying grain from producers for resale, milling or processing shall first procure a license from the department as required by the board before transacting business. Such license shall expire on June 30 and shall be renewed annually. The annual license fee shall be based on the total annual volume handled as follows:

(a) From zero to six thousand (6,000) bushels, fifty dollars ($50);

(b) Six thousand (6,000) to one hundred thousand (100,000) bushels, one hundred dollars ($100);

(c) One hundred thousand (100,000) to two million (2,000,000) bushels, two hundred dollars ($200);

(d) Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(e) Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(f) Over ten million (10,000,000) bushels, five hundred dollars ($500).

(2) The fee for each license shall be deposited in a trust and agency fund account in the State Treasury to be used for carrying out the provisions of KRS 251.410 to 251.510.

(3) Every person licensed as a grain dealer shall file with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the Commonwealth of Kentucky. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the Commissioner, as trustee or an irrevocable letter of credit on forms prescribed by the Commissioner. The principal amount of the certificate or letter of credit shall be the same as that required for a surety bond under this section, and the interest thereon if any shall be made payable to the purchaser. The bond shall be a principal amount, to the nearest one thousand dollars ($1,000), equal to ten percent (10%) of the aggregate dollar amount paid by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year, or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than twenty-five thousand dollars ($25,000), nor more than one hundred thousand dollars ($100,000), except as otherwise authorized by this section. Any grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the Commissioner, as trustee or an irrevocable letter of credit on forms prescribed by the Commissioner. The principal amount of the certificate shall be the same as that required for a surety bond under this section and the interest thereon shall be made payable to the purchaser thereof.

(4) The Commissioner shall, when he questions a grain dealer's ability to pay producers for grain purchased,

or when he determines that the grain dealer does not have a sufficient net worth to meet his financial obligations, require a grain dealer to post an additional bond in a dollar amount equal to the insufficiency or shall require an additional certificate of deposit or an irrevocable letter of credit equal to the insufficiency, as deemed appropriate by the Commissioner. Failure to post the additional bond or certificate of deposit or an irrevocable letter of credit constitutes grounds for suspension or revocation of a license issued under this section.

(5) The bond or additional bond shall be made payable to the Commonwealth of Kentucky, with the Commissioner as trustee, and shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this section. It shall be for the use and benefit of any producer from whom the grain dealer may purchase grain and who is not paid by the grain dealer, and shall not be cancelled, except upon at least sixty (60) days' notice in writing to the department. In no event shall the total aggregate liability of a surety exceed the face amount of its bond.

(6) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the Commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty-five thousand dollars ($25,000). Such request shall be accompanied by a financial statement of the applicant made within five (5) months of the date of such request, certified by a licensed public accountant, and such additional information concerning the applicant and his finances as the department may require. If such financial statement discloses a net worth of an amount equal to at least three (3) times the amount of the bond required by this section and the Commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the Commissioner may waive that portion of the required bond in excess of twenty-five thousand dollars ($25,000). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the Commissioner may allow the grain dealer to waive, in one thousand dollar ($1,000) increments, a portion of the bond required in excess of twenty-five thousand dollars ($25,000). The percentage factor to be applied to the bond required in excess of twenty-five thousand dollars ($25,000) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of twenty-five thousand dollars ($25,000). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, then that same percentage of the bond in excess of twenty-five thousand dollars ($25,000) may be waived. The grain dealer shall then provide to the department a surety bond in the amount of twenty-five thousand dollars ($25,000), plus any additional bond required in excess thereof.

(7) An incidental grain dealer whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of two hundred fifty thousand dollars ($250,000) may satisfy the bonding requirements of this section by filing with the department a bond, certificate of deposit or an irrevocable letter of credit at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction thereof of the dollar amount to be purchased with a minimum bond, certificate of deposit or an irrevocable letter of credit of one thousand dollars ($1,000), and a current financial statement.

(8) Failure of a grain dealer to file a bond, certificate of deposit or an irrevocable letter of credit and to keep the bond, certificate of deposit or an irrevocable letter of credit in force or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this section.

(9) When the Commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the Commissioner shall determine, through appropriate legal procedures, the producers and the amount of defaulted payment, and, as trustee of the bond, shall immediately after the determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds, then the surety shall be obligated to pay only the amount of the default.

(10) Any grain dealer who is also in the business of storing grain and is a warehouseman as defined in KRS 251.610 may be exempted from the licensing fee and bonding requirements of KRS 251.451 as long as his storage capacity and storage obligations are considered in formulating his grain dealer bond requirement.

***(11) The department may refuse to issue a license to any applicant or revoke the existing license of one (1) who furnishes false or misleading information or conceals a material fact on the application or other supporting documents; or has been convicted of fraud or deceptive practice; or is currently adjudicated incompetent by a court of competent jurisdiction; or for other good cause shown. Any individual so denied a license for these reasons shall be given written notice within thirty (30) days of receipt of application. Any applicant who is denied a license and feels he has been aggrieved may request a hearing by writing to the Commissioner of Agriculture.***

***(12) All applications for a grain dealer license shall be accompanied by a current financial statement or a letter of credit from a financial institution.***

Section 9. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license ***or current grain dealer license*** issued by the Commonwealth of Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.

(4) If any livestock subject to the lien of a security interest is sold at public auction through a stockyard licensed by the Commonwealth of Kentucky in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

(7) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five (45) days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five (45) day period.

Section 10. KRS 251.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 251.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

(2) Any person who violates KRS 251.220 or 251.290 shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one (1) year, or both.

(3) Any person who violates KRS 251.240 shall be guilty of a felony and fined not more than one thousand dollars ($1,000) or imprisoned for not more than two (2) years, or both.

(4) Any person who violates KRS 251.300 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(5) Any person who violates the provisions of KRS ***251.430*** [~~251.420~~] to ***251.720*** [~~251.510~~] shall be fined two hundred dollars ($200) for the first offense. He shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days for each subsequent offense. Each day

of operation in violation of the provisions of KRS ***251.430*** [~~251.420~~] to ***251.720*** [~~251.510~~] shall constitute a separate offense.

(6) [~~Any person who violates the bonding provisions of KRS 251.451 or 251.720 ; or who violates KRS 251.640 shall have his license revoked.~~

~~(7)~~] Any person who operates without a license as required by KRS ***251.430*** [~~251.451~~] or 251.720 shall be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or imprisoned for at least one (1) but not more than five (5) years, or both.

***(7) Any person who intentionally refuses or fails to pay moneys collected for assessment of grain under the Kentucky Grain Insurance Fund program as set forth in KRS 251.640 shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.***

The Committee Amendment No. 1 to **HB 771** is as follows:

Amend printed copy of **HB 771** on page 2, line 14, by changing the "***a***" at the end of that line to "***an***"; and

On page 2, line 15, insert "***irrevocable***" before the word "***letter***"; and

On page 26, line 17, change "***a***" at the beginning of that line to "***an***" and insert "***irrevocable***" before the word "***letter***".

**HB 570,** AN ACT relating to dogs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 258.135 is amended to read as follows:

***(1)*** On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens shall be agents of the Commonwealth in the collection of the license fees provided for herein, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the ***fee*** [~~same~~], dog wardens shall be allowed to retain the sum of twenty-five cents (25) for each license. The balance of the license fee collected shall be paid to the department on or before the 15th day of each next succeeding month and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in [~~such~~] enforcement, the department may allow ***these*** [~~such~~] portions of the license fee to be so retained by the counties.

***(2) Any county may choose to issue the license in conjunction with effective dates of a valid rabies vaccination provided the dog shall be licensed each fiscal year.***

The Committee on Agriculture and Small Business reported **HB 779**, **SB 94** with House Committee Substitute attached thereto, and **SB 253** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 779,** AN ACT relating to a referendum of small grain producers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of small grains shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers, and processors of small grains in promoting and stimulating, by utilization research, market maintenance and expansion, and education, the increased use and sale, domestic and foreign, of small grains and small grains products; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of small grains and small grains products to market.***

SECTION 2. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***As used in this Act unless the context otherwise requires:***

*(1) "Commissioner" means the Commissioner of Agriculture;*

*(2) "Board" means the State Board of Agriculture;*

*(3) "Small grains" means all kinds and varieties of cereal grains.*

*(4) "Bushel" means the weight for each type of cereal grain defined by the United States Department of Agriculture (USDA);*

*(5) "Producer" means every person who produces and markets small grains;*

*(6) "New producer" means a producer who was not engaged in the business of producing small grains at the time a referendum was conducted in accordance with the provisions of this Act;*

*(7) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity;*

*(8) "Marketing year" means from June 1 to May 31 of the following year;*

*(9) "Purchaser" means any person, public or private corporation, federal Commodity Credit Corporation, association or partnership buying, accepting for shipment, or otherwise acquiring the property in or to small grains from a producer, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, when the actual or constructive possession of the small grains is taken as part payment or in satisfaction of a mortgage, pledge, lien, or claim; and*

*(10) "Marketed" means any quantities that are sold, bartered, or for which other items of value are exchanged.*

SECTION 3. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*No association meeting or activity undertaken in pursuance of the provisions of this Act and intended to benefit all of the producers, handlers, dealers, and processors of small grains shall be deemed or considered illegal or in restraint of trade.*

SECTION 4. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of small grains shall be permitted by referendum to be held among the respective groups and subject to the provisions of this Act to levy upon themselves an assessment on small grains and provide for the collection of the assessment for the purpose of financing or contributing toward the financing of a program of research, market development, and education to increase the domestic and foreign consumption, use, sale, and markets for small grains and small grains products; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of small grains and small grains products to market.*

SECTION 5. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*(1) Any existing association which is fairly representative of the small grains producers of Kentucky, such as the Kentucky Small Grain Growers Association, may at any time after the effective date of this Act make application to the State Board of Agriculture on forms prescribed by the board for certification and approval for the purpose of conducting a referendum among the producers of small grains upon the question of levying an assessment under the provisions of this Act and collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:*

*(a) Applicant's name;*

*(b) Applicant's address;*

*(c) Date;*

*(d) Program to be undertaken for producers;*

*(e) Brief statement of how the program is to be implemented;*

*(f) Referendum to be conducted on a statewide basis;*

*(g) Proposed effective date of the program; and*

*(h) Signature of the applicant.*

*(2) Upon receipt of the application, the Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt.*

SECTION 6. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*Upon being certified by the Commissioner of Agriculture, the association shall be fully authorized and empowered to hold and conduct on the part of the producers of small grains a referendum on the question of whether the producers shall levy upon themselves an assessment under, and subject to, and for the purpose stated in this Act. The referendum shall be conducted on a statewide basis.*

SECTION 7. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*Any referendum conducted under the provisions of this Act shall be held on a statewide basis. The referendum may be participated in by all small grains producers, including owners of farms on which small grains are produced, and tenants and sharecroppers sharing in the proceeds of small grains. In the referendum, individuals eligible for participation shall vote upon the question of whether there shall be levied an annual assessment in the amount set forth in the call for the referendum.*

SECTION 8. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*The manner, conduct, and management of any referendum held under the provisions of this Act shall be under the supervision and direction of the Commissioner of Agriculture, and any and all expenses in connection therewith shall be borne by the association conducting the referendum.*

SECTION 9. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*With respect to any referendum conducted under the provisions of this Act, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount collected shall be applied. No assessment levied under the provisions of any referendum shall exceed one fourth of one percent (0.25%) of the gross marketed price per bushel on the small grains marketed in the state during a marketing year by any producer included in the group to which the referendum was submitted or by any person subsequently becoming a new producer.*

SECTION 10. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*The hours, voting places, rules and regulations for the referendum shall be established and determined by the Commissioner of Agriculture and shall be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by the referendum. The notice shall likewise contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed one fourth of one percent (0.25%) of the gross marketed price per bushel, and shall likewise state the method by which the assessment shall be collected and how the proceeds shall be administered and the purposes to which the proceeds shall be applied, which purposes shall be in keeping with the provisions of this Act.*

SECTION 11. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*The Commissioner of Agriculture shall prepare and distribute in advance of the referendum all necessary ballots and shall arrange for the necessary poll holders for conducting the referendum. Following the referendum and within ten (10) days thereafter, the Commissioner shall canvass and publicly declare the result of the referendum.*

SECTION 12. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*If, in the referendum called under the provisions of this Act, a majority of the eligible producers, who vote therein, shall vote in the affirmative and in favor of the levying and collection of the assessment proposed in the referendum, the assessment shall be collected in the manner determined and announced by the association conducting the referendum.*

SECTION 13. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

*If a majority of the eligible producers in the referendum who vote therein shall vote in favor of the assessment, the Commissioner shall notify, by certified mail, all persons engaged in the business of purchasing small grains in this state, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the gross*

***marketed price of the small grains. The assessment so deducted shall, on or before the fifteenth day of the month following the end of the month in which the small grains are sold to the purchaser, be remitted by the purchaser to the duly certified association which conducted the referendum. The books and records of all the purchasers of small grains shall at all times be open for inspection by the Commissioner of Agriculture or his duly authorized agents during regular business hours.***

SECTION 14. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***There is hereby established a fund utilization committee composed of four (4) members appointed by the certified organization; two (2) members appointed by the association representing the largest number of small grains farmers in the state; and one (1) member appointed by the Commissioner. These appointments shall be for terms of two (2) calendar years and each appointing body shall promptly file with the Commissioner the names of its respective appointees.***

SECTION 15. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***The funds, including donations from individuals, concerns, corporations, and grants from the state or governmental agencies, shall be used for the purpose of promoting and stimulating, by research, market development and education, the increased use and sale, domestic and foreign, of small grains and small grains products; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of small grains and small grains products to market. None of these funds shall be used for lobbying as defined in KRS 6.250. The duly certified association receiving the assessment funds shall, upon the advice and consent of the fund utilization committee, use and disburse the same as follows:***

***(1) The association may first refund to itself therefrom the costs and expenses incurred in the conduct of the referendum;***

***(2) The association may spend or disburse the necessary funds therefrom for administrative costs and expenses, but no more than fifteen percent (15%) of the funds collected in any marketing year shall be so utilized; and***

***(3) The balance remaining shall be used for the purposes provided in this section, as determined by the fund utilization committee.***

SECTION 16. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***If the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom the assessment shall have been levied and collected under the provisions of this Act, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the certified association a refund of the assessment collected from the producer; if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer.***

SECTION 17. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that the producers in the referendum representing ten percent (10%) of the production of small grains have indicated their dissatisfaction with the program by demanding a refund of the assessment collected from them, the Commissioner shall conduct a referendum among the producers. If, upon the referendum, a majority of the eligible producers, who vote therein, reject the program, it shall be terminated at the end of the marketing year in which the referendum was conducted; otherwise, the assessment program shall continue in force and effect.***

***(2) The Commissioner shall conduct a referendum five (5) years after the date of the first referendum and each subsequent five (5) year period thereafter to determine if the assessment should be continued or terminated.***

***(3) If the duly certified association of small grains producers expresses in writing its desire to the Commissioner to discontinue the assessment program and terminate the program, the Commissioner shall within fifteen (15) days following receipt of the request convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the marketing year in which the board action is taken; and, in this event, the Commissioner shall notify, by certified mail, the purchasers of small grains affected thereby of the termination of the program.***

SECTION 18. A NEW SECTION OF KRS 247.865 TO 247.900 IS CREATED TO READ AS FOLLOWS:

***When in the judgment of the board or the duly certified association, a purchaser has engaged in or***

is about to engage in any acts or practices that constitute a violation of any of the provisions of this Act, the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining the act or acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

Section 19. KRS 247.994 is amended to read as follows:

(1) Any purchaser of soybeans ***or small grains*** who violates, or fails or refuses to comply with the provisions of KRS 247.510 to 247.595 ***or this Act***, shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of the violation, or failing or refusing to comply with the provisions of KRS 247.510 to 247.595 ***or this Act*** shall constitute a separate offense.

(2) Any operator of a livestock market, meat packing establishment, or slaughter establishment who violates or fails or refuses to comply with the provisions of KRS 247.610 to 247.685 shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of the violation, or failing, or refusing to comply with the provisions of KRS 247.610 to 247.685 shall constitute a separate offense.

(3) Any operator of a tobacco warehouse, tobacco manufacturing establishment, or tobacco dealer who violates or fails or refuses to comply with the provisions of KRS 247.710 to 247.785 shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each failure to withhold or refusal to comply with the provisions of KRS 247.710 to 247.785 shall constitute a separate offense.

(4) Any egg handler who violates, or fails, or refuses to comply with the provisions of KRS 247.850 to 247.865 shall, upon conviction, be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of violating, or failing, or refusing to comply with the provisions of KRS 247.850 to 247.865 shall constitute a separate offense.

**SB 94**, AN ACT relating to agriculture.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 246.120 is amended to read as follows:

(1) The board shall consist of ***fifteen (15)*** [~~nine (9)~~] members as follows: The commissioner, ex-officio chairman; the director of the agricultural experiment station, ex-officio member and vice-chairman; and ***thirteen (13)*** [~~seven (7)~~] citizens of the commonwealth.

(2) The ***thirteen (13)*** [~~seven (7)~~] members from the state-at-large shall be experienced and practical farmers or agriculturalists, and not more than ***eight (8)*** [~~four (4)~~] of the ***thirteen (13)*** [~~seven (7)~~] of them shall belong to the same political party.

(3) Upon the expiration of the term of each member of the present board, and every four (4) years thereafter, the Governor shall appoint a successor.

(4) The board shall be a body corporate under the corporate name "State Board of Agriculture" and shall have the usual corporate powers.

Section 2. KRS 246.130 is amended to read as follows:

The members of the board shall meet at Frankfort at least once every two (2) months, or at any other place that they may determine, to consider the general agricultural, horticultural, forestry and industrial interests of the state, and to take the necessary steps for carrying out the purpose of the board. The commissioner may, and at the request of ***eight (8)*** [~~five (5)~~] members shall, call its meetings and the board may adjourn any meeting to such time and place as may be determined. ***Eight (8)*** [~~Five (5)~~] members shall constitute a quorum. ***Eight (8)*** [~~Five (5)~~] members may call the board together for the transaction of business if the commissioner, upon the request of ***eight (8)*** [~~five (5)~~] members, refuses to call it.

Section 3. KRS 246.160 is amended to read as follows:

The board shall act as an advisory board to the commissioner, and shall aid him in the distribution of seed, in the collection of information concerning crops and in the promulgation of industrial information generally. ***The board's advisory duties shall include, but not be limited to, advising the commissioner:***

***(1) On the enforcement of the provisions of the dog and livestock protection law, KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990; and***

***(2) In all matters pertaining to the administration of the egg marketing law, KRS 260.540 to 260.650 and KRS 260.990(3).***

Section 4. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990, unless the context requires otherwise:

(1) "Department" means the department of agriculture;

(2) "Commissioner" means the commissioner of agriculture;

(3) [~~"Committee" means the advisory committee created by KRS 258.115;~~

~~(4)~~] "Dog" means any member of the canine family, six (6) months of age or over;

***(4)***[~~(5)~~] "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

***(5)***[~~(6)~~] "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

***(6)***[~~(7)~~] "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

***(7)***[~~(8)~~] "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

***(8)***[~~(9)~~] "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions.

Section 5. The following KRS sections are repealed:

258.115 Advisory committee.

260.570 Egg marketing board — Functions — Membership — Appointment — Terms — Qualifications — Meetings — Compensation.

Section 6. The General Assembly confirms Executive Order 88-431 to the extent that it is not otherwise confirmed by this Act.

The House Committee Substitute to **SB 94** is as follows:

**SB 94**, AN ACT relating to agriculture.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 246.120 is amended to read as follows:

(1) The board shall consist of ***fifteen (15)*** [~~nine (9)~~] members as follows: The commissioner, ex-officio chairman; the director of the agricultural experiment station, ex-officio member and vice-chairman; and ***thirteen (13)*** [~~seven (7)~~] citizens of the commonwealth.

(2) The ***thirteen (13)*** [~~seven (7)~~] members from the state-at-large shall be experienced and practical farmers or agriculturalists, and not more than ***eight (8)*** [~~four (4)~~] of the ***thirteen (13)*** [~~seven (7)~~] of them shall belong to the same political party.

(3) Upon the expiration of the term of each member of the present board, and every four (4) years thereafter, the Governor shall appoint a successor.

(4) The board shall be a body corporate under the corporate name "State Board of Agriculture" and shall have the usual corporate powers.

Section 2. KRS 246.130 is amended to read as follows:

The members of the board shall meet at Frankfort at least once every two (2) months, or at any other place that they may determine, to consider the general agricultural, horticultural, forestry and industrial interests of the state, and to take the necessary steps for carrying out the purpose of the board. The commissioner may, and at the request of ***eight (8)*** [~~five (5)~~] members shall, call its meetings and the board may adjourn any meeting to such time and place as may be determined. ***Eight (8)*** [~~Five (5)~~] members shall constitute a quorum. ***Eight (8)*** [~~Five (5)~~] members may call the board together for the transaction of business if the commissioner, upon the request of ***eight (8)*** [~~five (5)~~] members, refuses to call it.

Section 3. KRS 246.160 is amended to read as follows:

The board shall act as an advisory board to the commissioner, and shall aid him in the distribution of seed, in the collection of information concerning crops and in the promulgation of industrial information generally. ***The board's advisory duties shall include, but not be limited to, advising the commissioner:***

***(1) On the enforcement of the provisions of the dog and livestock protection law, KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990; and***

***(2) In all matters pertaining to the administration of the egg marketing law, KRS 260.540 to 260.650 and KRS 260.990(3).***

Section 4. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990, unless the context requires otherwise:

(1) "Department" means the department of agriculture;

(2) "Commissioner" means the commissioner of agriculture;

(3) [~~"Committee" means the advisory committee created by KRS 258.115;~~

~~(4)~~] "Dog" means any member of the canine family, six (6) months of age or over;

***(4)***[~~(5)~~] "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

***(5)***[~~(6)~~] "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

***(6)***[~~(7)~~] "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

***(7)***[~~(8)~~] "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

***(8)***[~~(9)~~] "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions.

Section 5. KRS 260.540 is amended to read as follows:

As used in KRS 260.540 to 260.650 unless the context otherwise requires:

(1) [~~"Board" means the egg marketing board;~~

~~(2)~~] "Commissioner" means the Commissioner of Agriculture;

***(2)***[~~(3)~~] "Department" means the Department of Agriculture;

***(3)***[~~(4)~~] "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers, either on his own account or as an agent, and selling or transferring eggs by the case to a wholesaler, processor, retailer or other person;

***(4)***[~~(5)~~] "Handler" means a dealer, processor, wholesaler or retailer;

***(5)***[~~(6)~~] "Person" means any individual, firm, partnership, corporation, company, or association, and shall include any trustee, receiver or similar representative;

***(6)***[~~(7)~~] "Processor" means a person who operates a plant for the purpose of breaking eggs for freezing or drying;

***(7)***[~~(8)~~] "Retailer" means any person selling or offering for sale eggs to consumers in this state;

***(8)***[~~(9)~~] "Wholesaler" means a person who assembles eggs in case lots and disposes of them in quantities to retailers, or through other distribution channels;

***(9)***[~~(10)~~] "Candled and Graded" means candled and graded under state and federal standards and regulations;

***(10)***[~~(11)~~] "Ungraded and Candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled.

Section 6. The following KRS sections are repealed:

258.115 Advisory committee.

260.570 Egg marketing board — Functions — Membership — Appointment — Terms — Qualifications — Meetings — Compensation.

Section 7. The General Assembly confirms Executive Order 88-431 to the extent that it is not otherwise confirmed by this Act.

**SB 253,** AN ACT relating to the excise tax on cigarettes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by ***the purchase of stamps by a resident wholesaler within forty-eight (48)*** [~~affixing evidence of tax payment in the manner and at the time set forth in this section. The evidence of tax payment shall be affixed to each individual package of cigarettes by a resident wholesaler within seventy-two (72)~~] hours after the cigarettes are received by him. ***A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima-facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state.*** The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The cabinet shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes.

(4) Units of cigarette tax evidence shall be sold at their face value, but the cabinet shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents (30) face value for each three dollars ($3.00) of tax evidence purchased at face value. The cabinet shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the cabinet. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded or loaned to any other person. Unaffixed tax evidence may be returned to the cabinet for credit or refund for any reason satisfactory to the cabinet.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the cabinet of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the cabinet. The written notice may also be directed to the secretary of revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the cabinet, and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

The Committee on Energy reported **HB 688, HB 791** with Committee Amendment and Title Amendment attached thereto, and **SB 229** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 688,** AN ACT relating to special fuels.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 138.344 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the full amount of the tax so paid on such gasoline or special fuel; provided, however, that no refund shall be authorized unless applications therefor and all necessary information shall be filed annually with the Revenue Cabinet within ninety (90) days after the close of the calendar year or quarterly within thirty (30) days following the end of the calendar quarter during or in which such purchases were made; and further provided that no refund shall be authorized for any individual ***gasoline*** purchase of less than fifty (50) gallons. In lieu of the tax refund procedure herein, the tax on special fuels for operating or propelling stationary engines or tractors for agricultural purposes may be credited by the dealer to the purchaser as provided in KRS 138.358, provided, however, such dealer and such purchases shall be subject to the same rules, conditions and responsibilities as provided in KRS 138.344 to 138.355.

(2) The information to be required from the permit holder, by the Revenue Cabinet, in order that such refund may be allowed, is as follows:

(a) Name and address of permit holder ______________________ permit number ________

(b) Total number of gallons purchased ________ and total purchase price ________ (Invoices to be attached to refund application.)

(c) Total number of gallons used on highways ________

(d) Total number of gallons on which refund is claimed ________ (Line b minus line c.)

(e) Such other information as the cabinet may require to reasonably protect the revenues of the Commonwealth.

Section 2. KRS 138.348 is amended to read as follows:

(1) The cabinet may require any dealer or any dealer's authorized agent to identify refund gasoline or special fuel sold by him by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet.

(2) Refund gasoline [~~and special fuel~~] shall not be sold in quantities of less than fifty (50) gallons. ***Refund special fuel may be sold in any quantity.*** The refund permit holder shall receive and store all such gasoline and ***refund*** special fuel ***of any amount*** in containers plainly marked with distinguishing letters "Refund Motor Fuel," and shall keep such containers on his premises accessible to agents of the cabinet and separate from other gasoline and special fuel stored on his premises.

(3) The Revenue Cabinet may, within its discretion, issue a refund permit for a portable storage facility, provided, the applicant satisfies the cabinet that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes, and that fueling such vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund is claimed shall keep detailed records of all such motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use such fuel, and such other records as the Revenue Cabinet may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the cabinet are authorized to go upon the premises of any permit holder or of any licensed gasoline or special fuel dealer or his authorized agent to make inspections to ascertain any matter connected with the operation of KRS 138.344 to 138.355 or the enforcement thereof; Provided, however, That no agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

**HB 791,** AN ACT relating to utilities in cities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 96.540 is amended to read as follows:

(1) Except as provided in KRS 96.171 to 96.188, inclusive ***and in Section 2 of this Act,*** no city of the second, third, fourth, fifth or sixth class that owns a waterworks system or lighting system by gas or electricity, shall sell, convey, lease or encumber the system or the income therefrom without the assent of a majority of the total number of legal voters of the city voting at an election held for that purpose, after notice of the election has been published pursuant to KRS Chapter 424.

(2) In the case of a city of the fourth, fifth or sixth class the election shall be ordered and the election officers shall be selected by the city legislative body, the city clerk shall prepare the question for presentation to the voters and a tabulation of the vote shall be done by the city legislative body in the presence of the mayor; in all other respects the election shall be conducted under the regular election laws.

(3) This section ***shall*** [~~does~~] not apply to the issuance of revenue bonds under the provisions of KRS 96.350 to 96.520.

SECTION 2. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

***(1) A city of the sixth class may, in an emergency situation, sell, lease or otherwise transfer a utility system which it owns after obtaining the approval of two-thirds (2/3) of the utility's customers by petition, as specified in this section, without holding an election under KRS 96.540.***

***(2) The city legislative body shall enact an ordinance pursuant to 83A.060 which shall describe the terms of the proposed sale, lease or other transfer of the city-owned utility system, declare an emergency, and set out the reasons why the proposed transaction is deemed to be an emergency. The ordinance also shall set a deadline for obtaining the necessary signatures, and specify who will certify the petition.***

***(3) At least two (2) public hearings shall be held to inform the public of the proposed sale, lease or other transfer of the utility system, and to obtain public comment on the proposal. The hearings shall be publicized at a minimum, in accordance with KRS 424.130(1)(d).***

***(4) The petition may consist of several separate units, and shall include a full address and the date with each signature. Unless the ordinance provides otherwise, only a person named on an account shall be a valid signer of the petition. The utility shall make available a list of the names and addresses of all current customers.***

The Committee Amendment No. 1 to **HB 791** is as follows:

Amend printed copy of **HB 791** on page 3, after line 2, by adding the following:

"Section 3. Whereas, at least one city already is experiencing an emergency with respect to its utility, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

The Title Amendment to **HB 791** is as follows:

Amend printed copy of **HB 791** on page 1, to delete the title appearing therein and to insert in lieu thereof "AN ACT relating to utilities in cities, and declaring an emergency."

**SB 229,** AN ACT relating to the Public Service Commission.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 278.340 is amended to read as follows:

The commission ***itself may take depositions, or grant deposition rights at its discretion to*** [~~or any commissioner, or~~] any party ***in a*** [~~to the~~] proceeding[~~, in any investigation or hearing~~] before the commission. ***Depositions in commission proceedings shall be taken in accordance with the Rules of Civil Procedure*** [~~or any commissioner, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions~~].

The Committee on State Government reported **HB 603** with Committee Substitute attached thereto, and **HB 855** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 603,** AN ACT relating to corrections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

*(1) To facilitate the need for comprehensive planning for the Corrections Cabinet and for related matters the Kentucky State Corrections Commission is hereby created. The commission shall consist of twelve (12) members as follows:*

*(a) The Attorney General;*

*(b) The secretary of the Justice Cabinet;*

*(c) The secretary of the Corrections Cabinet;*

*(d) The chairman of the Parole Board;*

*(e) The secretary of the Cabinet for Human Resources;*

*(f) A county jailer chosen by the Governor from a list of three (3) jailers' names submitted by the Kentucky Jailers' Association;*

*(g) A circuit judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;*

*(h) Two (2) criminal justice professionals who are familiar with correctional research, theory and program implementation, appointed by the Governor;*

*(i) A representative from a law enforcement agency, appointed by the Governor;*

*(j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and*

*(k) A defense attorney chosen by the Governor from a list of three (3) submitted by the state Public Advocate.*

*(2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.*

*(3) The Governor shall appoint a chairperson of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.*

*(4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.*

*(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.*

*(6) The commission shall:*

*(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;*

*(b) Develop a six (6) year plan for Corrections Cabinet operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;*

*(c) Monitor, modify and update the six (6) year plan as necessary but not less frequently than semi-annually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;*

*(d) Assist the Corrections Cabinet in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;*

*(e) Review and make recommendations to the General Assembly concerning legislative proposals, including Corrections Cabinet budget proposals, to insure consistency with the six (6) year plan;*

*(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council and other interested parties, a schedule of punitive and rehabilitative*

*alternatives to imprisonment for dissemination to judges, prosecutors and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;*

*(g) Receive regular reports from the Corrections Cabinet, on a schedule established by the commission, as to the cabinet's progress in complying with the six (6) year plan;*

*(h) Review and make recommendations to the cabinet on any significant change in programs, policies, procedures, staffing, classification or other component of corrections operations which departs from the six (6) year plan;*

*(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;*

*(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation and parole; and*

*(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department of Social Services of the Cabinet for Human Resources, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation.*

*(7) The six (6) year plan shall consist of at least the following elements:*

*(a) The location, capacity, classification, and staffing of each penal institution and program administered by the Corrections Cabinet;*

*(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;*

*(c) The administrative structure of the Corrections Cabinet;*

*(d) Prison population projections for the six (6) year plan period;*

*(e) Education, rehabilitation, and prison industries programs administered by the Corrections Cabinet;*

*(f) The inmate labor program administered by the cabinet; and*

*(g) Contingency plans to deal with unexpected increases in prison population.*

*(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the corrections commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the corrections commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.*

Section 2. KRS 196.031 is amended to read as follows:

(1) The cabinet shall employ ***the*** [~~such~~] personnel and operate and maintain [~~such~~] data collection and processing systems [~~as are~~] necessary to comply with the provisions of this section.

(2) The cabinet shall annually on ***July 1*** [~~January 2~~] of each year[~~,~~] report to the Governor, [~~and to~~] the Legislative Research Commission ***and the Kentucky State Corrections Commission*** on:

(a) The placement of prisoners within the Commonwealth's correctional system by institution, whether imprisoned in a state prison or other institution, including county jails, on probation, paroled, housed in halfway houses, sentenced to community service or otherwise;

(b) Numbers of prisoners by type of offense;

(c) Numbers of prisoners by number and type of prior convictions;

(d) Numbers of prisoners paroled by type of offense and by length of time served;

(e) Numbers of prisoners released through shock probation by type of offense and by length of time served; and

(f) Numbers of prisoners serving their full sentence by type of offense.

(3) The cabinet shall annually report to the Governor and to the Legislative Research Commission on:

(a) Numbers and types of prison beds necessary to meet current population needs and ***six (6)*** [~~five (5)~~] year projections of ***the*** [~~such~~] needs ***based on the methodology developed and approved by the State Corrections Commission***;

(b) Current personnel needs of the cabinet and five (5) year projections of ***the*** [~~such~~] needs; and

(c) A ***six (6)*** [~~five (5)~~] year projection of needed capital construction, program development and anticipated requests for appropriations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

***(1) In every case, except as set forth in subsection (2) of this section, in which a person is convicted of a crime punishable by imprisonment and the jury has fixed a term of imprisonment, the jury shall consider whether the person should be sentenced to a term of community service as an alternative to the prison term. To assist it in making this determination, the jury shall be provided with a schedule of community service work projects from which to choose. The term of community service shall not be shorter than the length of the prison term nor longer than twice the length of the prison term. If the jury elects to impose the alternative community service sentence, the judge shall treat the prison term as a probated sentence and shall impose other terms and conditions of probation he deems appropriate. Failure to complete the prescribed term of community service shall be deemed a probation violation and shall subject the defendant to serve the prison sentence originally fixed by the jury.***

***(2) The provisions of this section shall not apply in the case of persons convicted of any felony described in KRS Chapters 507, 508, 509, 510, 515 or 520 or any Class A or Class B felony.***

***(3) The clerk of the Circuit Court, under the direction of the Circuit Court judges of the circuit and in cooperation with the Administrative Office of the Courts and the governmental units within the jurisdiction of the Circuit Court, shall maintain a schedule of community service work and projects for use by judges and juries in setting alternative sentences. Any city, county, urban county or other governmental unit desiring to participate in alternative sentence community service work and projects shall submit, on or before January 1, 1991, and every six (6) months thereafter, a list of community service work and projects it proposes for inclusion in the schedule. The court shall review these lists and include such of the suggested work and projects on the schedule as he deems appropriate.***

***(4) The Administrative Office of the Courts, under the direction of the Supreme Court, shall prepare a schedule of approved categories of alternative sentences which shall be disseminated to all judges and circuit clerks. The Administrative Office of the Courts shall assist the circuit clerks in the preparation of the schedule of community service alternative sentences for each circuit.***

Section 4. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, ***probation with an alternative sentencing plan*** or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation, ***probation with an alternative sentencing plan*** or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation, ***probation with an alternative sentencing plan*** or conditional discharge should be granted unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation, ***probation with an alternative sentencing plan*** or conditional discharge the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

Section 5. KRS 533.020 is amended to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance or direction that the probation service can provide. Conditions of probation shall be imposed

as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.

(2) ***When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.***

*(3)* When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

*(4)*[~~(3)~~] The period of probation***, probation with an alternative sentence*** or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years upon conviction of a felony nor two (2) years upon conviction of a misdemeanor. Upon completion of the probationary period***, probation with an alternative sentence*** or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation***, probation with an alternative sentence*** or conditional discharge has not been revoked.

*(5)*[~~(4)~~] Notwithstanding the fact that a sentence to probation***, probation with an alternative sentence*** or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 6. KRS 534.030 is amended to read as follows:

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony ***shall, in addition to any other punishment imposed upon him,*** [~~and granted a sentence of probation or conditional discharge may~~] be sentenced to pay a fine in an amount not ***less than one thousand dollars ($1,000) and not greater than*** [~~to exceed~~] ten thousand dollars ($10,000) or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of ***the*** [~~such~~] fines shall not exceed ten thousand dollars ($10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) ***Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.***

*(5)* This section ***shall*** [~~does not~~] apply to a corporation.

Section 7. KRS 534.040 is amended to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether [~~or not~~] the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion

of the judge or jury as the case may be. If the trial is by jury, [~~then~~] the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any ***misdemeanor and granted a sentence of probation or conditional discharge shall*** [~~offense other than a felony may~~] be sentenced to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars ($500); or

(b) For a Class B misdemeanor, two hundred fifty dollars ($250); or

(c) For a violation, two hundred fifty dollars ($250).

(3) This section ***shall*** [~~does~~] not apply to a corporation.

Section 8. KRS 196.070 is amended to read as follows:

The secretary of the Corrections Cabinet shall:

(1) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Luckett Correctional Complex, ***the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, the Roederer Correctional Complex and any*** [~~other~~] minimum security correctional institutions established and operated by the cabinet, or any divisions of those institutions, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the secretary and the secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of prisoners between institutions.

[~~(6) Approve the forfeiture or restoration of good time earned by prisoners during their term of confinement.~~]

Section 9. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission or agency of the state government;

(2) "Cabinet" means the Corrections Cabinet;

(3) "Penitentiaries" includes the state penal institutions for males at Eddyville and LaGrange, the Luther Luckett Correctional Complex, the ***Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex*** [~~institution for women located in Shelby County, and the minimum security facilities including, but not limited to, the Western Kentucky farm center, Roderer farm center~~], Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof and any other similar institutions hereafter established. [~~Northpoint training center shall be a temporary penitentiary.~~]

***(4) "Classification" means the systematic assignment of a prisoner to a custody level, program and penitentiary.***

Section 10. KRS 197.140 is amended to read as follows:

No prisoner who is serving a sentence for rape, attempted rape, [~~or who has escaped or attempted to escape from an adult correctional institution within the past five (5) years,~~] or who has been convicted of [~~armed~~] robbery ***I,*** [~~or armed~~] assault ***I or*** [~~with intent to rob where any injury has been inflicted upon any other person during the commission of the offense, shall be worked or released for work outside of the walls of the prison. No prisoner~~] who has been sentenced to life imprisonment shall be worked or released for work outside of the walls of the prison until he has actually served within the walls of the prison for at least one (1) year of his sentence ***and has been classified as minimum custody according to the Corrections***

***Cabinet's classification system. No prisoner who has escaped or attempted to escape from an adult correctional institution or local detention center or jail within the past five (5) years shall be worked or released for work outside of the walls of the prison.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***The secretary of the Corrections Cabinet may permit the release of the prisoners on the first day of the month in which their sentences would expire; if the first day of the month falls on Saturday, Sunday or a legal holiday, the prisoners may be released on the last weekday of the preceding month.***

Section 12. KRS 197.045 is amended to read as follows:

(1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as ***otherwise provided*** [~~outlined~~] in [~~subsection (3) of~~] this section, to be determined by the cabinet from the conduct of the prisoner. ***In addition the cabinet shall provide an educational good time credit of sixty (60) days to any prisoner that successfully completes a graduate equivalency diploma, a two (2) or four (4) year college degree or who passes state certification for any vocational program provided by the cabinet; prisoners may earn additional credit for each program completed.*** The cabinet ***may*** [~~shall have the authority to~~] forfeit any good time previously earned by the prisoner, or to deny the prisoner the right to earn good time in any amount, if during the term of imprisonment a prisoner commits any offense or violates the rules of the institution.

(2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.

(3) An inmate may, at the discretion of the secretary, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. ***The*** [~~Such an~~] allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.

Section 13. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than ***one hundred eighty (180)*** [~~ninety (90)~~] days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon [~~such~~] terms [~~as~~] the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) The provisions of this section shall not apply where a sentence of death has been imposed.

Section 14. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of ***the*** [~~such~~] investigation. ***The presentence investigation report shall not be waived.***

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to

psychiatric observation and examination for a period not exceeding sixty days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. ***It shall not be necessary to disclose*** the sources of confidential information [~~need not, however, be disclosed~~].

Section 15. KRS 196.030 is amended to read as follows:

(1) The cabinet shall, unless otherwise provided by law, exercise all functions of the state in relation to:

(a) Management of penal, reform and correctional institutions;

(b) Supervision of probation and parole;

(c) The giving of assistance to other departments, agencies and institutions of the state and federal government when requested by performing services in conformity with this section;

(d) Acting as the agent of the federal government in matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the performance of any function of this cabinet;

(e) Administration and enforcement of the provisions of KRS Chapter 441 relating to the development and enforcement of jail standards, training of jailers and jail personnel and jail planning and construction.

(2) ***Notwithstanding other provisions to the contrary, the Corrections Cabinet may contract with a county fiscal court or local or regional correctional authority to house misdemeanants and persons awaiting trial or sentencing.***

***(3)*** The provisions of this section shall not apply to any institution, home or agency which does not receive aid from the state, or a county or municipality.

Section 16. KRS 441.630 is amended to read as follows:

If the authority deems it suitable, feasible, necessary or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of such facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated, provided that the authority's contribution from its funds (excluding rentals received under leases made by the authority and any contribution, grant, or gift made to the authority by a local government, person, or entity other than the state, for the use and benefit of such project) shall not exceed ninety percent (90%) of such cost;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and such other steps as may be necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between the authority and any local government, ***including the requirement that all new jail construction projects receiving any authority funding shall provide an agreed upon number of beds for state prisoners at a rate set by the secretary of the Corrections Cabinet but which in no case shall be less than seventy-five percent (75%) of the actual daily cost of maintaining a prisoner***;

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser

thereof, the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth therein and in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute such lease and file the original or a signed counterpart thereof in the office of the authority, and the secretary of state of the Commonwealth;

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, such funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of such project or projects; and

(9) Agree to establish guidelines for the construction, reconstruction, improvement or repair of projects determined by the authority to qualify for grants from the authority.

SECTION 17. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***The Corrections Cabinet shall develop and implement on or before January 1, 1991, a program of prison labor beneficial to the public including, but not limited to, the use of prison labor in prison construction; the collection of litter, trash and debris on streets, highways and other public grounds, and the operation and maintenance of prison farms. The program shall not allow medium or maximum custody prisoners to work outside the walls of a prison. No fee or other compensation shall be charged or received by the Corrections Cabinet for the work from any city, county or urban-county government. The Corrections Cabinet shall be entitled to receive and retain, to defray its expenses, all sums paid for recyclable products collected by inmates.***

Section 18. KRS 197.180 is amended to read as follows:

The cabinet shall furnish ***to*** each convict, upon the termination of his sentence, or his release by pardon or parole with not more than seventy-five dollars ($75.00) and a suit of serviceable clothing, suitable to the season, and with transportation to ***a*** [~~the~~] county ***within the borders of the Commonwealth*** [~~from which he was sent~~]. The amount of money to be furnished to the convict shall be based upon his need as determined by the secretary or a person designated by the secretary in accordance with regulations of the cabinet. The transportation shall be paid by the state and shall be nontransferable.

Section 19. KRS 197.410 is amended to read as follows:

(1) A ***person is considered to be a*** "sexual offender" as used in this chapter ***when he:***

***(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or***

***(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or***

***(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or***

***(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or***

***(e) Has been adjudicated guilty of a felony offense under KRS 530.064; or***

***(f) Has been adjudicated guilty of a felony offense under KRS 531.310*** [~~is an individual who has been adjudicated guilty of any felony described in KRS Chapter 510 or any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510~~].

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or cabinet officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

(b) Is likely to benefit from the program.

(3) "Cabinet" is the Corrections Cabinet.

Section 20. KRS 196.037 is amended to read as follows:

***(1)*** All personnel of the cabinet, while acting for the cabinet in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.

***(2) All cabinet personnel who are officially requested by a law enforcement agency in a county of***

***Kentucky or by the Kentucky state police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Corrections Cabinet or a detention facility of the Corrections Cabinet shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.***

Section 21. KRS 197.160 is amended to read as follows:

Before any contract authorized by KRS 197.120 becomes effective, it ***shall*** [~~must~~] be approved by the Governor***, or his designee in the Finance and Administration Cabinet*** in writing.

SECTION 22. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***(1) The warden of each adult correctional institution shall designate the property officer as custodian of all property which is taken from the person of an inmate or which is lost or abandoned and taken into custody by any staff member.***

***(2) Any staff or inmate who finds abandoned or lost property shall report the property to the property officer in an attempt to see that the property is handled in a safe and appropriate manner.***

***(3) All the property shall be particularly described and registered by the property officer in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants, and any final disposition of the property.***

***(4) In cases where the property is not claimed or is of minor value and no owner is sought because of the minor value, the property becomes the property of the state and shall be used or disposed of as would other state property.***

***(5) Unclaimed items which are in usable condition and which have an initial value of one hundred dollars ($100) or more or which bear a serial number shall be turned over to the institutional property officer so that the property officer can identify it with a cabinet property number and report it to the cabinet property section.***

***(6) No property shall be disposed of that has been in custody for less than ninety (90) days and for which reasonable efforts have not been made to ascertain and return property to the rightful owner.***

***(7) The warden shall designate the internal affairs officer custodian of all property alleged to be or suspected of being the proceeds of crime or alleged to be or suspected of having been used to facilitate the commission of a crime.***

***(8) Weapons and other items which may have been used in a crime shall be turned over to the internal affairs officer, who shall take steps to preserve the proper evidence chain. The physical evidence shall be placed in an evidence bag. A label shall be placed on the front of the bag containing the following information: name and number of suspect; name of victim, if applicable; date of incident; time of incident; name and position of staff recovering evidence; signature of staff recovering evidence verifying that all evidence is present and that the evidence label is correct. The internal affairs officer shall keep an evidence log book. If the evidence changes possession, the receiving person shall document from whom the evidence was received, and the date and time received.***

***(9) If removal of evidence or contraband is necessary for court presentation or laboratory analysis, the internal affairs officer shall notify the Department of State Police. In these cases, evidence or contraband shall be released to the state police and both the internal affairs officer and the state police officer shall sign and date the evidence log indicating the transfer has occurred.***

***(10) Physical evidence shall be destroyed upon approval of the internal affair's officer only when no connection can be established between the physical evidence and the suspect of the crime committed.***

SECTION 23. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***KRS 61.884 and 61.878 to the contrary notwithstanding, no inmate confined in a jail or any facility under the jurisdiction of the Corrections Cabinet shall have access to any records relating to himself or any other inmate if the disclosure is deemed by the warden and treatment staff to constitute a threat to the security of the inmate, any other inmate, correctional staff or the institution.***

Section 24. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of such use as may endanger the safety or security of a detention facility or persons therein, including but not limited to dangerous instruments as defined in KRS 500.080, any controlled substances and ***any quantity of*** marijuana, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any ***building and its premises*** [~~place~~] used for the confinement of a person:

(a) Charged with or convicted of an offense;

(b) Alleged or found to be delinquent;

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that ***the*** [~~such~~] departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in ***this section and*** KRS 520.015, "penitentiary" includes any facility operated by the Corrections Cabinet and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Corrections Cabinet.

Section 25. KRS 520.050 is amended to read as follows:

(1) A person is guilty of promoting contraband in the first degree when:

(a) He knowingly introduces dangerous contraband into a detention facility ***or a penitentiary***; or

(b) Being a person confined in a detention facility ***or a penitentiary***, he knowingly makes, obtains or possesses dangerous contraband.

(2) Promoting contraband in the first degree is a Class D felony.

Section 26. KRS 520.060 is amended to read as follows:

(1) A person is guilty of promoting contraband in the second degree when:

(a) He knowingly introduces contraband into a detention facility ***or a penitentiary***; or

(b) Being a person confined in a detention facility ***or a penitentiary***, he knowingly makes, obtains or possesses contraband.

(2) Promoting contraband in the second degree is a Class A misdemeanor.

Section 27. KRS 211.935 is amended to read as follows:

***(1)*** If, upon the inspection of a state confinement facility, the cabinet finds that ***a condition exists*** [~~conditions exist~~] which ***endangers*** [~~endanger~~] the health of those confined or likely to be confined in the facility, or the public health of the citizens of the Commonwealth of Kentucky, the cabinet shall advise the supervising and maintaining authorities, ***and shall enter the appropriate order to correct that condition. The supervision and maintenance authorities shall insure that those persons confined in a facility are notified of the findings*** [~~and those persons confined in the facility, that the facility does not meet the rules, regulations, or standards duly established by the cabinet pursuant to KRS 211.920 to 211.945~~].

***(2) In addition to the penalties provided by KRS 211.990(2), the cabinet may institute injunctive proceedings in Franklin Circuit Court to enforce any order given pursuant to KRS 211.935(1) and for which appropriate corrective action has not been taken.***

Section 28. KRS 211.945 is amended to read as follows:

All laws of the Commonwealth that relate to the supervision and maintenance of state confinement facilities shall be administered in a manner consistent with the provisions of KRS 211.925 to ***211.930*** [~~211.940~~] and the rules, regulations, and standards promulgated pursuant to it.

Section 29. The following KRS sections are repealed:

211.940 Transfer of inmates to facilities which meet rules, regulations and standards — Procedure — Costs.

440.455 Interstate agreement on detainers to apply to detainers based on affidavits and warrants charging violation of probation and parole.

The Committee Substitute to **HB 603** is as follows:

**HB 603,** AN ACT relating to corrections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

*(1) To facilitate the need for comprehensive planning for the Corrections Cabinet and for related matters the Kentucky State Corrections Commission is hereby created. The commission shall consist of twelve (12) members as follows:*

*(a) The Attorney General;*

*(b) The secretary of the Justice Cabinet;*

*(c) The secretary of the Corrections Cabinet;*

*(d) The chairman of the Parole Board;*

*(e) The secretary of the Cabinet for Human Resources;*

*(f) A county jailer chosen by the Governor;*

*(g) A circuit judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;*

*(h) Two (2) criminal justice professionals who are familiar with correctional research, theory and program implementation, appointed by the Governor;*

*(i) A representative from a law enforcement agency, appointed by the Governor;*

*(j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and*

*(k) The state Public Advocate.*

*(2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.*

*(3) The Governor shall appoint a chairperson of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.*

*(4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.*

*(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.*

*(6) The commission shall:*

*(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;*

*(b) Develop a six (6) year plan for Corrections Cabinet operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;*

*(c) Monitor, modify and update the six (6) year plan as necessary but not less frequently than semi-annually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;*

***(d) Assist the Corrections Cabinet in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;***

***(e) Review and make recommendations to the General Assembly concerning legislative proposals, including Corrections Cabinet budget proposals, to insure consistency with the six (6) year plan;***

***(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;***

***(g) Receive regular reports from the Corrections Cabinet, on a schedule established by the commission, as to the cabinet's progress in complying with the six (6) year plan;***

***(h) Review and make recommendations to the cabinet on any significant change in programs, policies, procedures, staffing, classification or other component of corrections operations which departs from the six (6) year plan;***

***(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;***

***(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation and parole; and***

***(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department of Social Services of the Cabinet for Human Resources, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation.***

***(7) The six (6) year plan shall consist of at least the following elements:***

***(a) The location, capacity, classification, and staffing of each penal institution and program administered by the Corrections Cabinet;***

***(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;***

***(c) The administrative structure of the Corrections Cabinet;***

***(d) Prison population projections for the six (6) year plan period;***

***(e) Education, rehabilitation, and prison industries programs administered by the Corrections Cabinet;***

***(f) The inmate labor program administered by the cabinet; and***

***(g) Contingency plans to deal with unexpected increases in prison population.***

***(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the corrections commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the corrections commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.***

Section 2. KRS 196.031 is amended to read as follows:

(1) The cabinet shall employ ***the*** [~~such~~] personnel and operate and maintain [~~such~~] data collection and processing systems [~~as are~~] necessary to comply with the provisions of this section.

(2) The cabinet shall annually on ***July 1*** [~~January 2~~] of each year[~~,~~] report to the Governor, [~~and to~~] the Legislative Research Commission ***and the Kentucky State Corrections Commission*** on:

(a) The placement of prisoners within the Commonwealth's correctional system by institution, whether imprisoned in a state prison or other institution, including county jails, on probation, paroled, housed in halfway houses, sentenced to community service or otherwise;

(b) Numbers of prisoners by type of offense;

(c) Numbers of prisoners by number and type of prior convictions;

(d) Numbers of prisoners paroled by type of offense and by length of time served;

(e) Numbers of prisoners released through shock probation by type of offense and by length of time served; and

(f) Numbers of prisoners serving their full sentence by type of offense.

(3) The cabinet shall annually report to the Governor and to the Legislative Research Commission on:

(a) Numbers and types of prison beds necessary to meet current population needs and ***six (6)*** [~~five (5)~~] year projections of ***the*** [~~such~~] needs ***based on the methodology developed and approved by the State Corrections Commission***;

(b) Current personnel needs of the cabinet and five (5) year projections of ***the*** [~~such~~] needs; and

(c) A ***six (6)*** [~~five (5)~~] year projection of needed capital construction, program development and anticipated requests for appropriations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

***(1) In every case in which a person pleads guilty to or is convicted of a crime punishable by imprisonment, the judge shall consider whether the person should be sentenced to a term of community service as an alternative to the prison term. The term of community service shall not be shorter than the length of the prison term nor longer than twice the length of the prison term. Failure to complete the prescribed term of community service shall be deemed a probation violation and shall subject the defendant to serve the prison service originally fixed by the court or jury.***

***(2) The clerk of the Circuit Court, under the direction of the Circuit Court judges of the circuit and in cooperation with the Administrative Office of the Courts and the governmental units within the jurisdiction of the Circuit Court, shall maintain a schedule of community service work and projects for use by judges in setting alternative sentences. Any city, county, urban-county, or other governmental unit desiring to participate in alternative sentence community service work and projects shall submit to the clerk, on or before January 1, 1991, and every six (6) months thereafter, a list of community service work and projects it proposes for inclusion in the schedule.***

***(3) The Administrative Office of the Courts, under the direction of the Supreme Court, shall prepare a schedule of approved categories of alternative sentences which shall be disseminated to all judges and circuit clerks.***

Section 4. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation***, probation with an alternative sentencing plan*** or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation, ***probation with an alternative sentencing plan*** or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation***, probation with an alternative sentencing plan*** or conditional discharge should be granted unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation***, probation with an alternative sentencing plan*** or conditional discharge the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

Section 5. KRS 533.020 is amended to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits

an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.

(2) ***When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.***

***(3)*** When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

***(4)***[~~(3)~~] The period of probation***, probation with an alternative sentence*** or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years upon conviction of a felony nor two (2) years upon conviction of a misdemeanor. Upon completion of the probationary period***, probation with an alternative sentence*** or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation***, probation with an alternative sentence*** or conditional discharge has not been revoked.

***(5)***[~~(4)~~] Notwithstanding the fact that a sentence to probation***, probation with an alternative sentence*** or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 6. KRS 534.030 is amended to read as follows:

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony ***shall, in addition to any other punishment imposed upon him,*** [~~and granted a sentence of probation or conditional discharge may~~] be sentenced to pay a fine in an amount not ***less than one thousand dollars ($1,000) and not greater than*** [~~to exceed~~] ten thousand dollars ($10,000) or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of ***the*** [~~such~~] fines shall not exceed ten thousand dollars ($10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) ***Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.***

***(5)*** This section ***shall*** [~~does not~~] apply to a corporation.

Section 7. KRS 534.040 is amended to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether [~~or not~~] the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury, [~~then~~] the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony ***shall*** [~~may~~] be sentenced***, in addition to any other punishment imposed upon him,*** to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars ($500); or

(b) For a Class B misdemeanor, two hundred fifty dollars ($250); or

(c) For a violation, two hundred fifty dollars ($250).

(3) This section ***shall*** [~~does not~~] apply to a corporation.

***(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.***

Section 8. KRS 196.070 is amended to read as follows:

The secretary of the Corrections Cabinet shall:

(1) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Luckett Correctional Complex, ***the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, the Roederer Correctional Complex and any*** [~~other~~] minimum security correctional institutions established and operated by the cabinet, or any divisions of those institutions, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the secretary and the secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of prisoners between institutions.

[~~(6) Approve the forfeiture or restoration of good time earned by prisoners during their term of confinement.~~]

Section 9. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission or agency of the state government;

(2) "Cabinet" means the Corrections Cabinet;

(3) "Penitentiaries" includes the state penal institutions for males at Eddyville and LaGrange, the Luther Luckett Correctional Complex, the ***Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex*** [~~institution for women located in Shelby County, and the minimum security facilities including, but not limited to, the Western Kentucky farm center, Roderer farm center~~], Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof and any other similar institutions hereafter established. [~~Northpoint training center shall be a temporary penitentiary.~~]

***(4) "Classification" means the systematic assignment of a prisoner to a custody level, program and penitentiary.***

Section 10. KRS 197.140 is amended to read as follows:

No prisoner who is serving a sentence for rape, attempted rape, [~~or who has escaped or attempted to escape from an adult correctional institution within the past five (5) years,~~] or who has been convicted of [~~armed~~] robbery ***/,*** [~~or armed~~] assault ***/ or*** [~~with intent to rob where any injury has been inflicted upon any other person during the commission of the offense, shall be worked or released for work outside of the walls of the prison. No prisoner~~] who has been sentenced to life imprisonment shall be worked or released for work outside of the walls of the prison until he has actually served within the walls of the prison for at least one (1) year of his sentence ***and has been classified as minimum custody according to the Corrections***

***Cabinet's classification system. No prisoner who has escaped or attempted to escape from an adult correctional institution or local detention center or jail within the past five (5) years shall be worked or released for work outside of the walls of the prison.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***The secretary of the Corrections Cabinet may permit the release of the prisoners on the first day of the month in which their sentences would expire; if the first day of the month falls on Saturday, Sunday or a legal holiday, the prisoners may be released on the last weekday of the preceding month.***

Section 12. KRS 197.045 is amended to read as follows:

(1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as ***otherwise provided*** [~~outlined~~] in [~~subsection (3) of~~] this section, to be determined by the cabinet from the conduct of the prisoner. ***In addition the cabinet shall provide an educational good time credit of sixty (60) days to any prisoner that successfully completes a graduate equivalency diploma, a two (2) or four (4) year college degree or who passes state certification for any vocational program provided by the cabinet; prisoners may earn additional credit for each program completed.*** The cabinet ***may*** [~~shall have the authority to~~] forfeit any good time previously earned by the prisoner, or to deny the prisoner the right to earn good time in any amount, if during the term of imprisonment a prisoner commits any offense or violates the rules of the institution.

(2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.

(3) An inmate may, at the discretion of the secretary, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. ***The*** [~~Such an~~] allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.

Section 13. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than ***one hundred eighty (180)*** [~~ninety (90)~~] days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon [~~such~~] terms [~~as~~] the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) The provisions of this section shall not apply where a sentence of death has been imposed.

Section 14. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of ***the*** [~~such~~] investigation. ***The presentence investigation report shall not be waived.***

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to

psychiatric observation and examination for a period not exceeding sixty days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. ***The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose*** the sources of confidential information [~~need not, however, be disclosed~~].

Section 15. KRS 196.030 is amended to read as follows:

(1) The cabinet shall, unless otherwise provided by law, exercise all functions of the state in relation to:

(a) Management of penal, reform and correctional institutions;

(b) Supervision of probation and parole;

(c) The giving of assistance to other departments, agencies and institutions of the state and federal government when requested by performing services in conformity with this section;

(d) Acting as the agent of the federal government in matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the performance of any function of this cabinet;

(e) Administration and enforcement of the provisions of KRS Chapter 441 relating to the development and enforcement of jail standards, training of jailers and jail personnel and jail planning and construction.

(2) ***Notwithstanding other provisions to the contrary, the Corrections Cabinet may contract with a county fiscal court or local or regional correctional authority to house misdemeanants and persons awaiting trial or sentencing.***

***(3)*** The provisions of this section shall not apply to any institution, home or agency which does not receive aid from the state, or a county or municipality.

Section 16. KRS 441.630 is amended to read as follows:

If the authority deems it suitable, feasible, necessary or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of such facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated, provided that the authority's contribution from its funds (excluding rentals received under leases made by the authority and any contribution, grant, or gift made to the authority by a local government, person, or entity other than the state, for the use and benefit of such project) shall not exceed ninety percent (90%) of such cost;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and such other steps as may be necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between the authority and any local government***, including the requirement that all new jail construction projects receiving any authority funding shall provide an agreed upon number of beds for state prisoners at a rate set by the secretary of the Corrections Cabinet but which in no case shall be less than seventy-five percent (75%) of the actual daily cost of maintaining a prisoner,***

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project

and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser thereof, the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth therein and in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute such lease and file the original or a signed counterpart thereof in the office of the authority, and the secretary of state of the Commonwealth;

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, such funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of such project or projects; and

(9) Agree to establish guidelines for the construction, reconstruction, improvement or repair of projects determined by the authority to qualify for grants from the authority.

SECTION 17. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***The Corrections Cabinet shall develop and implement on or before January 1, 1991, a program of prison labor beneficial to the public including, but not limited to, the use of prison labor in prison construction provided that prisoners so employed are registered in an apprenticeship program approved by the Kentucky Labor Cabinet; the collection of litter, trash and debris on streets, highways and other public grounds, and the operation and maintenance of prison farms. The program shall not allow medium custody prisoners to work outside the walls of a prison without guarded supervision. No maximum custody prisoner shall be allowed to work outside the prison walls. No fee or other compensation shall be charged or received by the Corrections Cabinet for the work from any city, county or urban-county government. No prisoner shall work for a private person. The Corrections Cabinet shall be entitled to receive and retain, to defray its expenses, all sums paid for recyclable products collected by inmates.***

Section 18. KRS 197.180 is amended to read as follows:

The cabinet shall furnish ***to*** each convict, upon the termination of his sentence, or his release by pardon or parole with not more than seventy-five dollars ($75.00) and a suit of serviceable clothing, suitable to the season, and with transportation to ***a*** [~~the~~] county ***within the borders of the Commonwealth*** [~~from which he was sent~~]. The amount of money to be furnished to the convict shall be based upon his need as determined by the secretary or a person designated by the secretary in accordance with regulations of the cabinet. The transportation shall be paid by the state and shall be nontransferable.

Section 19. KRS 197.410 is amended to read as follows:

(1) A ***person is considered to be a*** "sexual offender" as used in this chapter ***when he:***

***(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or***

***(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or***

***(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or***

***(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or***

***(e) Has been adjudicated guilty of a felony offense under KRS 530.064; or***

***(f) Has been adjudicated guilty of a felony offense under KRS 531.310*** [~~is an individual who has been adjudicated guilty of any felony described in KRS Chapter 510 or any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510~~].

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or cabinet officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

(b) Is likely to benefit from the program.

(3) "Cabinet" is the Corrections Cabinet.

Section 20. KRS 196.037 is amended to read as follows:

***(1)*** All personnel of the cabinet, while acting for the cabinet in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.

***(2) All cabinet personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Kentucky state police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Corrections Cabinet or a detention facility of the Corrections Cabinet shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.***

Section 21. KRS 197.160 is amended to read as follows:

Before any contract authorized by KRS 197.120 becomes effective, it ***shall*** [~~must~~] be approved by the Governor***, or his designee in the Finance and Administration Cabinet*** in writing.

SECTION 22. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***(1) The warden of each adult correctional institution shall designate the property officer as custodian of all property which is taken from the person of an inmate or which is lost or abandoned and taken into custody by any staff member.***

***(2) Any staff or inmate who finds abandoned or lost property shall report the property to the property officer in an attempt to see that the property is handled in a safe and appropriate manner.***

***(3) All the property shall be particularly described and registered by the property officer in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants, and any final disposition of the property.***

***(4) In cases where the property is not claimed or is of minor value and no owner is sought because of the minor value, the property becomes the property of the state and shall be used or disposed of as would other state property.***

***(5) Unclaimed items which are in usable condition and which have an initial value of one hundred dollars ($100) or more or which bear a serial number shall be turned over to the institutional property officer so that the property officer can identify it with a cabinet property number and report it to the cabinet property section.***

***(6) No property shall be disposed of that has been in custody for less than ninety (90) days and for which reasonable efforts have not been made to ascertain and return property to the rightful owner.***

***(7) The warden shall designate the internal affairs officer custodian of all property alleged to be or suspected of being the proceeds of crime or alleged to be or suspected of having been used to facilitate the commission of a crime.***

***(8) Weapons and other items which may have been used in a crime shall be turned over to the internal affairs officer, who shall take steps to preserve the proper evidence chain. The physical evidence shall be placed in an evidence bag. A label shall be placed on the front of the bag containing the following information: name and number of suspect; name of victim, if applicable; date of incident; time of incident; name and position of staff recovering evidence; signature of staff recovering evidence verifying that all evidence is present and that the evidence label is correct. The internal affairs officer shall keep an evidence log book. If the evidence changes possession, the receiving person shall document from whom the evidence was received, and the date and time received.***

***(9) If removal of evidence or contraband is necessary for court presentation or laboratory analysis, the internal affairs officer shall notify the Department of State Police. In these cases, evidence or contraband shall be released to the state police and both the internal affairs officer and the state police officer shall sign and date the evidence log indicating the transfer has occurred.***

***(10) Physical evidence shall be destroyed upon approval of the internal affair's officer only when no connection can be established between the physical evidence and the suspect of the crime committed.***

SECTION 23. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

***KRS 61.884 and 61.878 to the contrary notwithstanding, no inmate confined in a jail or any facility under the jurisdiction of the Corrections Cabinet shall have access to any records relating to himself or any other inmate if the disclosure is deemed by the warden and treatment staff to constitute a threat to the security of the inmate, any other inmate, correctional staff or the institution.***

Section 24. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of such use as may endanger the safety or security of a detention facility or persons therein, including but not limited to dangerous instruments as defined in KRS 500.080, any controlled substances and ***any quantity of*** marijuana, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any ***building and its premises*** [~~place~~] used for the confinement of a person:

(a) Charged with or convicted of an offense;

(b) Alleged or found to be delinquent;

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that ***the*** [~~such~~] departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in ***this section and*** KRS 520.015, "penitentiary" includes any facility operated by the Corrections Cabinet and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Corrections Cabinet.

Section 25. KRS 520.050 is amended to read as follows: (1) A person is guilty of promoting contraband in the first degree when:

(a) He knowingly introduces dangerous contraband into a detention facility ***or a penitentiary***; or

(b) Being a person confined in a detention facility ***or a penitentiary***, he knowingly makes, obtains or possesses dangerous contraband.

(2) Promoting contraband in the first degree is a Class D felony.

Section 26. KRS 520.060 is amended to read as follows:

(1) A person is guilty of promoting contraband in the second degree when:

(a) He knowingly introduces contraband into a detention facility ***or a penitentiary***; or

(b) Being a person confined in a detention facility ***or a penitentiary***, he knowingly makes, obtains or possesses contraband.

(2) Promoting contraband in the second degree is a Class A misdemeanor.

Section 27. KRS 211.935 is amended to read as follows:

***(1)*** If, upon the inspection of a state confinement facility, the cabinet finds that ***a condition exists*** [~~conditions exist~~] which ***endangers*** [~~endanger~~] the health of those confined or likely to be confined in the facility, or the public health of the citizens of the Commonwealth of Kentucky, the cabinet shall advise the supervising and maintaining authorities, ***and shall enter the appropriate order to correct that condition. The supervision and maintenance authorities shall insure that those persons confined in a facility are notified of the findings*** [~~and those persons confined in the facility, that the facility does not meet the rules, regulations, or standards duly established by the cabinet pursuant to KRS 211.920 to 211.945~~].

***(2) In addition to the penalties provided by KRS 211.990(2), the cabinet may institute injunctive proceedings in Franklin Circuit Court to enforce any order given pursuant to KRS 211.935(1) and for which appropriate corrective action has not been taken.***

Section 28. KRS 211.945 is amended to read as follows:

All laws of the Commonwealth that relate to the supervision and maintenance of state confinement facilities shall be administered in a manner consistent with the provisions of KRS 211.925 to ***211.930*** [~~211.940~~] and the rules, regulations, and standards promulgated pursuant to it.

Section 29. KRS 196.270 is amended to read as follows:

There shall be established and maintained within the corrections cabinet a centralized canteen operation which shall be incorporated and self-supporting. Each institution administered by the cabinet shall participate in the canteen operation. The directors of the canteen shall be as follows: the secretary, the commissioner of the department of adult institutions, the executive director of the office of administrative services, ***and*** the wardens of ***all state correctional institutions*** [~~the Kentucky state penitentiary, Kentucky state reformatory, the Luther Lucket correctional complex, the Northpoint Training Center, and Kentucky correctional institution for women, ex officio, and a warden from one (1) of the remaining correctional institutions elected at large by the wardens~~]. All profits from the canteen, including the sale of handicrafts made by inmates to the general public, shall be used exclusively for the benefit of the inmates of the cabinet. The directors of the canteen are authorized to consolidate the assets of the existing canteens for this purpose and to employ such staff and inmates as are necessary to efficiently manage the canteen.

Section 30. KRS 441.075 is amended to read as follows:

(1) Whenever the cabinet finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the secretary of the cabinet***, or his designee,*** shall order that the violation be corrected immediately.

(2) In order to enforce an order made pursuant to subsection (1) of this section, the secretary may:

(a) Order the jail or portions thereof to be vacated and closed until the violation is eliminated.

(b) Order the jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) Order the state contribution made pursuant to KRS 441.206 to be used, in whole or in part, to contract with another county for the incarceration of prisoners.

(3) An order issued under this section shall be in writing, incorporating the findings of the cabinet and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of said notification, request in writing a public hearing before the secretary of the cabinet or his designee on the matters covered by said order. Upon the hearing, the secretary of the cabinet or his designee may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The secretary of the cabinet or his designee may issue, modify or repeal the order at the conclusion of the hearing.

Section 31. The following KRS sections are repealed:

211.940 Transfer of inmates to facilities which meet rules, regulations and standards — Procedure — Costs.

440.455 Interstate agreement on detainers to apply to detainers based on affidavits and warrants charging violation of probation and parole.

**HB 855,** AN ACT relating to administrative regulations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:***

***(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;***

***(b) An item is not filed on or before a deadline specified by KRS Chapter 13A; or***

***(c) The administrative body has failed to comply with the provisions of KRS Chapter 13A governing the filing of administrative regulations, public hearings and the statement of consideration.***

***(2) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) Prior to the effective date of a new administrative regulation, or an amended administrative regulation that has been filed with the Legislative Research Commission, an administrative body shall not file subsequent amendments to that administrative regulation unless:*

*(a) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or*

*(b) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or*

*(c) Conditions warrant the filing of an emergency administrative regulation; or*

*(d) The amendments are made:*

*1. After a public hearing as provided by Section 26 of this Act; or*

*2. At a subcommittee meeting during which the administrative regulation is reviewed as provided by Section 27 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*The Legislative Research Commission may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A. An emergency administrative regulation promulgated by the Legislative Research Commission shall be signed by its co-chairmen.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.*

*(2) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during the interim between regular sessions of the General Assembly, it shall expire on adjournment of the next succeeding regular session of the General Assembly.*

*(3) The provisions of this Act shall apply to all administrative regulations found deficient, including those found deficient during the 1990 regular session of the General Assembly.*

*(4) If deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.*

*(5) (a) An administrative body may prepare legislation proposing the enactment of the provisions of an administrative regulation found deficient by a subcommittee.*

*(b) Prior to the convening of the General Assembly in regular session, it shall notify the regulations compiler in writing of its intent to prepare legislation.*

*(c) It shall submit such legislation to the Legislative Research Commission.*

*(d) The proposed legislation may be introduced by any member of the General Assembly.*

*(6) An administrative body shall be prohibited from promulgating an administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsections (1), (2) and (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) An administrative regulation found deficient by a subcommittee shall not expire if:*

*(a) A subsequent amendment of that administrative regulation is filed with the commission by the administrative body;*

*(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and*

*(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.*

***(2) An administrative regulation found deficient by the administrative regulation review subcommittee shall not expire if:***

***(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the commission;***

***(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and***

***(c) The administrative regulation review subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not expire.***

***(3) An administrative regulation found deficient by a subcommittee shall not expire if the subcommittee:***

***(a) Reconsiders the administrative regulation and its finding of deficiency; and***

***(b) Approves a motion that the administrative regulation is not deficient.***

***(4) (a) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation shall expire on adjournment of the next regular session of the General Assembly." This notice shall be the last section of the administrative regulation.***

***(b) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the commission shall contain the notice provided in paragraph (a) of this section.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute requires:***

***(a) An administrative body to implement; or***

***(b) A regulated entity to comply with;***

***the provisions of that code or uniform standard; and***

***(c) Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.***

***(2) If a code or uniform standard is adopted with changes by the administrative body, the administrative body shall file with the regulations compiler a:***

***(a) Copy of the code or uniform standard;***

***(b) Summary listing the pages upon which changes have been made; and***

***(c) Detailed summary of the changes and their effect.***

***The summaries shall be attached to the back of the proposed administrative regulation.***

***(3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate such material by reference in an administrative regulation as provided by Sections 7 and 8 of this Act.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) An administrative regulation incorporating material by reference shall include:***

***(a) The effective date of the material incorporated by reference;***

***(b) Information on how the material may be obtained; and***

***(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional or branch offices of the administrative body, and the address and office hours of each.***

***The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.***

***(2) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:***

***(a) Relevant programs, statutes, funds, rights, duties and procedures affected by the material and the manner in which they are affected;***

***(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and***

***(c) The total number of pages incorporated by reference.***

***(3) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed. Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type the number of a proposed administrative regulation to which material incorporated by reference pertains and the date on which it is filed on the front binder cover and on the first page of the material incorporated by reference.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***When a proposed administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:***

***(1) An entire new document in which the amendments have been made but are not reflected in the manner specified in Section 23 of this Act;***

***(2) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation; and***

***(3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in Section 23 of this Act.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***Federal statutes shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) A federal regulation shall not be incorporated by reference or adopted without change if it requires an administrative body to establish:***

***(a) Specific or minimum procedures, standards, conditions, restrictions, forms or fees; or***

***(b) Permits the administrative body to impose procedures, standards, conditions, restrictions, forms or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation.***

***(2) The administrative body shall promulgate an administrative regulation complying with the federal requirements.***

***(3) The federal regulation shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation promulgated by the administrative body.***

***(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in subsection (3) of Section 7 of this Act.***

***(5) If the administrative body imposes procedures, standards, conditions, restrictions, forms or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation, it shall attach a summary of its action.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) A federal regulation shall not be incorporated by reference if it:***

***(a) Imposes specific procedures, standards, conditions, restrictions, forms or fees on regulated entities;***

***(b) Does not require or permit the administrative body to alter the specified procedures, standards, conditions, restrictions, forms or fees, or to select among alternatives; and***

***(c) Requires the administrative body to implement or to enforce such procedures, standards, conditions, restrictions, forms or fees.***

***(2) The federal regulation shall be adopted without change and shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation.***

***(3) In a separate section, an administrative regulation shall include a citation of the federal regulation, the effective date of the federal regulation and a statement that the subject matter of the administrative regulation is governed by that federal regulation.***

***(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in subsection (3) of Section 7 of this Act.***

***(5) The administrative body shall attach to the administrative regulation a summary of the federal regulation that is adopted without change.***

***(6) If the federal regulation is amended, the citation of the effective date of the federal regulation shall be amended. The administrative body shall attach to the administrative regulation a summary of the federal regulation, as amended. The administrative body shall submit a copy of the federal regulation, as amended, with the administrative regulation in a binder as provided in subsection (3) of Section 7 of this Act.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) An administrative body shall divide the general subject matter of administrative regulations it promulgates into topics. A separate administrative regulation shall be promulgated for each topic.***

***(2) An administrative body shall not incorporate all material relating to a general subject matter in one (1) administrative regulation. Material incorporated by reference shall be incorporated by reference in the administrative regulation governing the specific topic to which the material relates.***

***(3) When an administrative regulation adopted prior to July 15, 1988 is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of this section.***

Section 13. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the court of justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes ***an existing administrative regulation, a proposed administrative regulation, an emergency administrative regulation and*** the amendment or repeal of ***an existing*** [~~a prior~~] administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has become effective in accordance with the provisions of this chapter;

(4) ***"Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;***

*(5)* "Commission" means the Legislative Research Commission;

***(6) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping or similar responsibilities upon entities in the Commonwealth;***

***(7) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;***

*(8)*[~~(5)~~] "Filed" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has been submitted to the commission in accordance with this chapter;

*(9)*[~~(6)~~] "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

*(10)*[~~(7)~~] "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

*(11)*[~~(8)~~] "Subcommittee" includes the administrative regulation review subcommittee, any other subcommittee of the Legislative Research Commission, [~~or~~] a standing committee of the General Assembly***, or a house and senate standing committee meeting jointly***; ***and***

*(12)*[~~(9)~~] "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities[~~;~~

~~(10) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping or similar responsibilities upon business entities in the Commonwealth; and~~

~~(11) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245~~].

Section 14. KRS 13A.032 is amended to read as follows:

A finding of noncompliance with KRS 13A.030(2)(a) made by ***a*** [~~both the administrative regulation review subcommittee and appropriate jurisdictional~~] subcommittee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding, the Legislative Research Commission may institute legal proceedings in Franklin Circuit Court.

Section 15. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of proposed administrative regulations, proposed amendment to existing administrative regulations, proposed repeal of existing administrative regulations, emergency administrative regulations, and regulatory impact analysis for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) ***Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;***

*(7)* Prepare the Kentucky administrative regulations service;

*(8)*[~~(7)~~] Make certifications required by this chapter;

***(9) Correct errors that do not change the substance of an administrative regulation, including but not limited to typographical errors, errors in format, and grammatical errors;***

*(10)*[~~(8)~~] Refuse to accept for filing proposed administrative regulations that do not conform to the provisions of KRS 13A.222 and 13A.224, and [~~shall~~] notify the administrative body in writing of the reasons for refusing to accept a proposed administrative regulation for filing; and

*(11)*[~~(9)~~] Perform such other duties as required by the commission or by a subcommittee.

Section 16. KRS 13A.100 is amended to read as follows:

Subject to limitations in applicable statutes, any administrative body which is empowered to promulgate administrative regulations shall, by administrative regulation prescribe, consistent with applicable statutes:

(1) ***Each statement of general applicability, policy, procedure, memorandum or other form of action that implements, interprets, prescribes law or policy, describes the organization, procedure, or practice requirements of any administrative body, or affects private rights or procedures available to the public;***

*(2)* The process for application for license, benefits available or other matters for which an application would be appropriate unless such process is prescribed by a statute;

*(3)*[~~(2)~~] Fees, except for those exempted in paragraphs (a) through (i), of this subsection, to be charged by the administrative body if such fees are authorized by law and are not set by statute:

(a) State park room rates;

(b) Prices for food in restaurants at state facilities;

(c) Prices for goods at gift shops at state facilities;

(d) Prices for groceries and other items sold at state facilities;

(e) Prices charged for state publications;

(f) Prices charged for rides and amusement activities at state facilities;

(g) Admission fees to athletic and entertainment events at state facilities;

(h) Charges for swimming, skiing, horseback riding, and similar recreational activities at state facilities; [~~and~~]

(i) Charges for boat and equipment rentals for recreational purposes at state facilities; ***and***

***(j) Admission fees charged for seminars and educational courses by state administrative bodies;***

*(4)*[~~(3)~~] The procedures to be utilized by the administrative body in the conduct of hearings by or for the administrative body unless such procedures are prescribed by a statute; and

*(5)*[~~(4)~~] The disciplinary procedures within the jurisdiction of the administrative body unless such procedures are prescribed by statute.

Section 17. KRS 13A.110 is amended to read as follows:

Subject to limitations in applicable statutes, any administrative body which is empowered to promulgate administrative regulations may, consistent with applicable statutes, prescribe forms ***and tables*** for use by the administrative body and for the public in dealing with the administrative body unless the content of such form is prescribed by a statute. ***Forms that are required to be submitted by a regulated entity shall be included in an administrative regulation. Forms and tables that meet the requirements of Section 6 of this Act may be incorporated by reference.***

Section 18. KRS 13A.120 is amended to read as follows:

(1) An administrative body may adopt administrative regulations to implement a statute only when the act of the General Assembly creating or amending the statute specifically authorizes the adoption of such regulations or such regulations are required by federal law, in which case such regulations shall be no more stringent than the federal law or regulations.

*(2)* [~~, but~~] An administrative body shall not promulgate administrative regulations:

(a) When a statute prohibits the administrative body from promulgating administrative regulations;

(b) When the administrative body is not authorized by statute to promulgate administrative regulations;

(c) When a statute prohibits the administrative body from regulation of that particular matter;

(d) When the administrative body is not authorized by statute to regulate that particular matter;

(e) When a statute prescribes the same or similar procedure for the matter regulated;

(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;

(g) On any matter which is not clearly within the jurisdiction of the administrative body;

(h) On any matter which is beyond the statutory authorization of the administrative body to promulgate administrative regulations or which is not clearly authorized by statute; and

(i) Which modify or vitiate a statute or its intent.

***(3) If a statute requires the submission of a proposed administrative regulation to an official or another administrative body for review or approval, an administrative body shall not file an administrative regulation without first having obtained such review or approval.***

***(4)***[~~(2)~~] Any administrative regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

***(5)***[~~(3)~~] No administrative body, other than the Court of Justice shall issue rules.

***(6)***[~~(4)~~] No administrative body shall issue standards or by any other name issue a document of any type where an administrative regulation is required or authorized by law.

Section 19. KRS 13A.150 is amended to read as follows:

(1) When any section of this chapter requires that an action be taken at a specified date with regard to filing of items to the commission, they shall be filed on or before 12:00 noon, eastern time, on the specified date.

(2) When any section of this chapter requires that an action be taken at a specified date and the specified date falls on a Saturday, Sunday or holiday, the action shall be taken ***on or before 12:00 noon, eastern time,*** on the working day immediately preceding the Saturday, Sunday or holiday.

Section 20. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ***one hundred twenty (120)*** [~~ninety (90)~~] days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) ***Each emergency administrative regulation shall contain a statement of:***

***(a) The nature of the emergency;***

***(b) The reasons why an ordinary administrative regulation is not sufficient;***

***(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;***

***(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and***

***(e) If applicable, the explanation required by subsection (5) of this section.***

***(7) An administrative body shall attach the statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation.***

***(8) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."***

***(9) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.***

***(10) (a)*** If it is intended that ***the subject matter of*** an emergency administrative ***regulation*** [~~regulation's subject matter~~] remain in effect ***longer than one hundred twenty (120) days after publication of the emergency administrative regulation***, the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation.

***(b) If*** [~~When~~] such an ordinary administrative regulation has been filed and is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

***(c) If such an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.***

***(11) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.***

***(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.***

***(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.***

***(12)***[~~(7)~~] ***A*** [~~The administrative regulation review subcommittee or subsequently assigned~~] subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be revoked.

[~~(8) Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor.~~

~~(9) An administrative body shall attach the statement of emergency required by subsections (5) and (8) of this section to the front of the original and each copy of a proposed emergency administrative regulation. A space no smaller than two (2) by three (3) inches in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."~~

~~(10) Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the Governor.~~]

Section 21. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies may use any number of tiers they

feel will solve most effectively the problem the administrative regulation addresses. [~~If the administrative body does not tier its administrative regulations,~~] A written statement must be submitted to the Legislative Research Commission explaining why tiering ***was or*** was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables; and

(h) Reduce or modify fine schedules for noncompliance.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and non-size variables. Size variables include number of citizens, number of employes, level of operating revenues, level of assets and market shares. Non-size variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 22. KRS 13A.220 is amended to read as follows:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file the original and five (5) copies of a proposed administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) A proposed amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky administrative regulations service or the administrative register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of a proposed administrative regulation shall be as follows:

(a) A proposed administrative regulation shall be typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches and shall be double-spaced. Copies of the proposed administrative regulation may be mechanically reproduced;

(b) A space no smaller than ***four (4) inches wide by two (2) inches long*** [~~two (2) by three (3) inches~~] in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the proposed administrative regulation;

(c) The cabinet, department and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(Proposed Amendment)" or "(Amended After Hearing)," whichever is applicable. If a proposed administrative regulation is new, ***the notation shall read "(Proposed Administrative Regulation)"*** [~~no notation is necessary~~];

(d) The notation shall be followed by the number and title of the proposed administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new proposed administrative regulation;

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list any statutes and other enactments, including appropriation acts or executive orders, to which the proposed administrative regulation relates or which shall be affected by the proposed administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the proposed administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.224; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the proposed administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g. (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of a proposed administrative regulation, the administrative body shall include the following information:

(a) ***If the provisions of subsection (3) of Section 18 of this Act are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.***

***(b)*** The authorizing signature of the administrative body promulgating the proposed administrative regulation, and the date on which the administrative body approved the promulgation;

***(c)***[~~(b)~~] The signature of ***an*** [~~the~~] attorney [~~officially representing the administrative body,~~] certifying that he has examined and approved the proposed administrative regulation as to form; [~~and~~]

***(d)***[~~(c)~~] Information relating to public hearings as required by KRS ***13A.160 and*** 13A.270.

***(e) The name of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:***

***1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;***

***2. Negotiate changes in language with a subcommittee in order to resolve such issues; and***

***3. Answer questions relating to the administrative regulation.***

Section 23. KRS 13A.222 is amended to read as follows:

(1) In a new proposed administrative regulation, there shall be no underlining or bracketing.

(2) In all proposed amendments to administrative regulations, the proposed new words shall precede the proposed deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all proposed new words; and

(b) Place the proposed deleted words in brackets and strike through these words [~~with hyphens~~].

(3) ***(a)*** No administrative regulation shall be amended by reference to a section only. A proposed amendment shall contain the full text of the administrative regulation being amended.

***(b) A section of an administrative regulation shall not be reserved for future use.***

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation or prohibition shall be expressed by "shall" or "shall not." "Should," "could" or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or[~~;~~]"***, and shall not separate alternatives with a slash. It shall not use contractions.*** When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed in the first section of a proposed administrative regulation ***or in a separate administrative regulation. The*** [~~This~~] section ***or administrative regulation*** shall be titled "Definitions." ***If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of a specific chapter of the Kentucky administrative regulations service. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky administrative regulations service to which the definitions apply.*** In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

2. To avoid repetition of a phrase; or

3. To limit or extend the provisions of a proposed administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however.***" "If" shall be used to express conditions, rather than the words "when" or "where***;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

| Do Not Use: | Use: |
|---|---|
| And/or | "and" for a conjunctive<br>"or" for a disjunctive |
| Any and all | either word |
| As provided in this administrative regulation | — |
| At the time | when |

| | |
|---|---|
| And the same hereby is | is |
| Either directly or indirectly | — |
| Except where otherwise provided | state specific exemption |
| Final and conclusive | final |
| Full force and effect | force or effect |
| In the event that; In case | if |
| Is authorized; Is empowered | may |
| Is defined and shall be construed to mean | means |
| Is hereby required to | shall |
| It shall be lawful | may |
| Latin words | do not use unless medical or scientific terminology |
| Null and void and of no effect | void |
| Order and direct | either word |
| Provision of law | law |
| Until such time as | until |
| Whenever | if |

(l) Unless the authority for an administrative regulation is an appropriation act that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of a proposed administrative regulation shall be cited. If an act has not been codified at the time a proposed administrative regulation is promulgated, or if the authority is an appropriation act, the citation shall be as follows: "Acts (year), Chapter (chapter number), Section (section number)." ***When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.***

Section 24. KRS 13A.224 is amended to read as follows:

[~~(1) An administrative body may incorporate by reference:~~

~~(a) Material that is copyrighted by the Commonwealth of Kentucky or one of its administrative bodies; and~~

~~(b) Material that is unduly cumbersome, bulky or expensive to publish.~~

~~(2)~~] No material shall be incorporated by reference unless:

***(1)***[~~(a)~~] The material incorporated by reference relates only to the specific subject matter governed by an administrative regulation;

***(2)***[~~(b)~~] The material has been reviewed in detail by the administrative body;

***(3)***[~~(c)~~] No statute, state or federal regulation prescribes the same or similar procedure, or sets forth a comprehensive scheme of regulation of the subject matter; and

***(4)***[~~(d)~~] Its incorporation is necessary in order to:

***(a)***[~~1.~~] Implement, interpret or prescribe law or policy authorized or required by statute;

***(b)***[~~2.~~] Establish or describe the organization, procedure or practice requirements authorized or required by statute.

[~~(3) An administrative regulation incorporating material by reference shall include:~~

~~(a) The effective date of the material incorporated by reference;~~

~~(b) Information on how the material may be obtained; and~~

~~(c) A statement that the material is available for public inspection and copying at the main, regional or branch offices of the administrative body, and the address and office hours of each.~~

~~The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.~~

~~(4) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:~~

~~(a) Relevant programs, statutes, funds, rights, duties and procedures affected by the material and the manner in which they are affected;~~

~~(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and~~

~~(c) The total number of pages incorporated by reference.~~

~~(5) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed. Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type the number of a proposed administrative regulation to which material incorporated by reference pertains and the date on which it is filed on the front binder cover and on the first page of the material incorporated by reference.~~

~~(6) Federal statutes shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.~~

~~(7) If a federal regulation is adopted without change by the administrative body:~~

~~(a) It shall not be incorporated by reference, but shall be cited as provided by subsection (6) of this section; and~~

~~(b) In a separate section, an administrative regulation shall include a statement that the subject matter of the administrative regulation is governed by that federal regulation.~~

~~(8) If a federal regulation is adopted with changes by the administrative body, it shall be incorporated by reference.~~

~~(a) A proposed administrative regulation that adopts a federal regulation with changes shall contain a separate section stating that the subject matter of the administrative regulation is governed by that federal regulation as changed by the administrative body.~~

~~(b) The administrative body shall file with the regulations compiler:~~

~~1. A copy of the federal regulation in which the changes have been made in the manner specified in KRS 13A.222;~~

~~2. An entire new document in which the changes have been made but are not reflected in the manner specified in KRS 13A.222; and~~

~~3. A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation.~~

~~(9) When a proposed administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:~~

~~(a) An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222;~~

~~(b) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation; and~~

~~(c) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in KRS 13A.222.~~

~~(10) (a) An administrative regulation shall not incorporate all material relating to a general subject matter in one (1) proposed administrative regulation. An administrative body shall divide the subject matter~~

~~into topics. Each such separate administrative regulation shall be limited to the specific topic to which the material relates. Material incorporated by reference shall be incorporated by reference in a proposed administrative regulation governing the specific topic to which the material relates.~~

~~(b) When an administrative regulation adopted prior to July 15, 1988, is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of this section.~~]

Section 25. KRS 013A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of a proposed administrative regulation:

(a) Regulatory impact analysis;

(b) ***Tiering statement*** [~~If the administrative regulation was not tiered, a written statement as to why tiering was not used. The written statement shall be included in the space provided for this purpose on the regulatory impact analysis~~];

(c) Local mandate impact statement, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable; and

(e) The summaries provided for in KRS 13A.224, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 26. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date the administrative body shall give consideration to all written and oral comments received, whether at the hearing or otherwise, regarding the proposed administrative regulation, proposed amendment to an administrative regulation or repeal of an administrative regulation.

(2) The administrative body shall then file with the commission ***on or before*** [~~by~~] 12 noon, eastern time, on the fifteenth (15th) day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) If the proposed administrative regulation, proposed amendment of an administrative regulation, or repeal of an administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the following to the regulations compiler by noon on the fifteenth day following the hearing:

(a) The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise; [~~and~~]

(b) The original and five (5) copies of the statement of consideration as required by subsection (2) of this section***; and***

***(c) The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.***

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization. agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment" and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing; [~~and~~]

(h) If the promulgating administrative body amends the proposed administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement*; and*

***(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.***

(5) ***(a)*** If the proposed administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

***(b) If the statement of consideration is not forwarded to the regulations compiler at least five (5) working days prior to a meeting of the administrative regulation review subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.***

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text ***of the administrative regulation*** shall be published in the administrative register. ***The administrative regulation shall be reviewed by the administrative regulation review subcommittee after such publication.***

***(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.***

Section 27. KRS 13A.290 is amended to read as follows:

(1) ***Within forty-five days after publication of an administrative regulation in "The Administrative Register", or*** within forty-five (45) days of the receipt of ***a*** [~~the~~] statement of consideration the administrative regulation review subcommittee shall meet to review the administrative regulation. ***The administrative regulation review subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3).***

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the ***administrative regulation review subcommittee*** meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative

regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the commission the administrative regulation review subcommittee shall forward to the commission its findings, recommendations, or other comments [~~as~~] it deems appropriate in writing. ***The administrative regulation review subcommittee shall also forward to the commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed.*** One copy thereof shall be sent to the promulgating agency. The administrative regulation review subcommittee's findings shall be published in the administrative register.

(6) After review by the administrative regulation review subcommittee, the commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter [~~making up the substance of the regulation~~].

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. ***Notice of the time, date and place of the meeting shall be placed in the legislative calendar.***

(8) ***An administrative body shall comply with subsection (4) of this section.***

***(9)*** The subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the administrative regulation review subcommittee as provided in KRS 13A.030(2) and (3).

***(10)***[~~(9)~~] Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments [~~as~~] it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

Section 28. KRS 013A.300 is amended to read as follows:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of ***a*** [~~the administrative regulation review subcommittee or subsequently assigned~~] subcommittee that consideration of the administrative regulation be deferred by such subcommittee.

[~~(2)~~] Upon receipt of the request the subcommittee ***may*** [~~shall~~] defer consideration of the proposal.

***(2)***[~~(3)~~] The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as an action under KRS 13A.310.

***(3)***[~~(4) Except as provided by this chapter,~~] A subcommittee ***may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request the promulgating administrative body may agree to defer consideration of the administrative regulation*** [~~shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation~~].

***(4)***[~~(5)~~] Except as provided in subsections (1) to ***(3)*** [~~(4)~~] of this section, neither the promulgating administrative body, the commission, nor ***a*** [~~the administrative regulation review subcommittee or subsequently assigned~~] subcommittee shall defer any action which is required to be taken pursuant to this chapter.

Section 29. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. ***If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.***

(4) Once a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

(5) ***An administrative regulation that has been deferred shall be placed*** [~~If the administrative body defers action on a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation and subsequently determines that the proposal should go into effect without amendment, the administrative body shall, before the deadline for publication in the administrative register, notify the regulations compiler who shall publish the determination in the administrative register and place the matter~~] on the agenda of the next scheduled meeting of the [~~administrative regulation review subcommittee or subsequently assigned~~] subcommittee ***that is reviewing the administrative regulation***. Such subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 30. KRS 13A.320 is amended to read as follows:

(1) ***(a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.***

***(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was:***

***1. Related to the proposed administrative regulation or the proposed amendment to an existing administrative regulation filed with the Legislative Research Commission; and***

***2. Considered at the public hearing; or***

***3. Raised by the subcommittee.*** [~~When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the administrative regulation review subcommittee or subsequently assigned subcommittee,~~]

***(c)*** Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee the following requirements shall be met:

(a) ***Amendments proposed by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body;***

***(b)*** Amendments ***initiated by the administrative body*** shall be contained in a ***letter*** [~~memorandum~~] to the subcommittee, shall identify the administrative body, and shall state the number of the administrative regulation and the date. ***Such*** amendments shall be filed with the regulations compiler ***at least five (5) working days prior to*** [~~as soon as possible before~~] the meeting of the subcommittee;

***(c)***[~~(b)~~] The number of the section and subsection to which the amendment applies shall precede the amendment and shall be underlined; and

***(d)***[~~(c)~~] If a word or phrase is to be deleted, the amendment shall identify the word or phrase to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase with which it is replaced. Example: Section 5, subsection (3): The word "qualify" before the phrase "of the internship program" is deleted. The word "quality" is inserted in lieu of the word "qualify."

Section 31. KRS 13A.330 is amended to read as follows:

(1) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day a subcommittee meets to consider the proposal pursuant to KRS 13A.290(7).

(2) Where a subcommittee fails to meet within thirty (30) days of assignment of a proposed regulation as provided in KRS 13A.290(7), the proposed regulation, amendment or repeal thereof shall become effective as of the expiration of such thirty (30) day period.

[~~(3) Any regulation which became effective or contains an amendment which became effective subsequent to a finding by either the administrative regulation review subcommittee or subsequently assigned subcommittee~~

~~that the regulation or amendment thereto was deficient as provided in KRS 13A.030(2)(a), shall be effective only until the effective date for acts of the next succeeding regular session of the General Assembly on which date it shall expire, unless enacted into statute by the regular session of the General Assembly following its adoption.~~

~~(4) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (3) of this section shall prepare legislation proposing the enactment of such administrative regulation into statute by the next regular session of the General Assembly. Such legislation shall be submitted to the Legislative Research Commission and may be introduced by any member of the General Assembly.~~

~~(5) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.~~

~~(6) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (3) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.~~]

Section 32. The following KRS sections are repealed:

13A.340 Notification of administrative regulations filed prior to July 14, 1984, which are to remain in effect — Procedure — Repeal of administrative regulations for which no notice is received by July 1, 1985.

The Committee Substitute to **HB 855** is as follows:

**HB 855,** AN ACT relating to administrative regulations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:*

*(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;*

*(b) An item is not filed on or before a deadline specified by KRS Chapter 13A; or*

*(c) The administrative body has failed to comply with the provisions of KRS Chapter 13A governing the filing of administrative regulations, public hearings and the statement of consideration.*

*(2) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) Prior to the effective date of a new administrative regulation, or an amended administrative regulation that has been filed with the Legislative Research Commission, an administrative body shall not file subsequent amendments to that administrative regulation unless:*

*(a) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or*

*(b) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or*

*(c) Conditions warrant the filing of an emergency administrative regulation; or*

*(d) The amendments are made:*

*1. After a public hearing as provided by Section 26 of this Act; or*

*2. At a subcommittee meeting during which the administrative regulation is reviewed as provided by Section 27 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***The Legislative Research Commission may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A. An emergency administrative regulation promulgated by the Legislative Research Commission shall be signed by its co-chairmen.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.***

***(2) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during the interim between regular sessions of the General Assembly, it shall expire on adjournment of the next succeeding regular session of the General Assembly.***

***(3) The provisions of this Act shall apply to all administrative regulations found deficient, including those found deficient during the 1990 regular session of the General Assembly.***

***(4) If deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.***

***(5) (a) An administrative body may prepare legislation proposing the enactment of the provisions of an administrative regulation found deficient by a subcommittee.***

***(b) Prior to the convening of the General Assembly in regular session, it shall notify the regulations compiler in writing of its intent to prepare legislation.***

***(c) It shall submit such legislation to the Legislative Research Commission.***

***(d) The proposed legislation may be introduced by any member of the General Assembly.***

***(6) An administrative body shall be prohibited from promulgating an administrative regulation that is identical to or substantially the same as a regulation which has expired pursuant to subsections (1), (2) and (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) An administrative regulation found deficient by a subcommittee shall not expire if:***

***(a) A subsequent amendment of that administrative regulation is filed with the commission by the administrative body;***

***(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and***

***(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.***

***(2) An administrative regulation found deficient by the administrative regulation review subcommittee shall not expire if:***

***(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the commission;***

***(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and***

***(c) The administrative regulation review subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not expire.***

***(3) An administrative regulation found deficient by a subcommittee shall not expire if the subcommittee:***

***(a) Reconsiders the administrative regulation and its finding of deficiency; and***

***(b) Approves a motion that the administrative regulation is not deficient.***

***(4) (a) If an administrative regulation has been found deficient by a subcommittee, the regulations***

*compiler shall add the following notice to the administrative regulation: "This administrative regulation shall expire on adjournment of the next regular session of the General Assembly." This notice shall be the last section of the administrative regulation.*

*(b) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the commission shall contain the notice provided in paragraph (a) of this section.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute requires:*

*(a) An administrative body to implement; or*

*(b) A regulated entity to comply with;*

*the provisions of that code or uniform standard; and*

*(c) Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.*

*(2) If a code or uniform standard is adopted with changes by the administrative body, the administrative body shall file with the regulations compiler a:*

*(a) Copy of the code or uniform standard;*

*(b) Summary listing the pages upon which changes have been made; and*

*(c) Detailed summary of the changes and their effect.*

*The summaries shall be attached to the back of the proposed administrative regulation.*

*(3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate such material by reference in an administrative regulation as provided by Sections 7 and 8 of this Act.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

*(1) An administrative regulation incorporating material by reference shall include:*

*(a) The effective date of the material incorporated by reference;*

*(b) Information on how the material may be obtained; and*

*(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional or branch offices of the administrative body, and the address and office hours of each.*

*The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.*

*(2) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:*

*(a) Relevant programs, statutes, funds, rights, duties and procedures affected by the material and the manner in which they are affected;*

*(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and*

*(c) The total number of pages incorporated by reference.*

*(3) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed. Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type the number of a proposed administrative regulation to which material incorporated by reference pertains and the date on which it is filed on the front binder cover and on the first page of the material incorporated by reference.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***When a proposed administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:***

***(1) An entire new document in which the amendments have been made but are not reflected in the manner specified in Section 23 of this Act;***

***(2) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation; and***

***(3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in Section 23 of this Act.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***Federal statutes shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) A federal regulation shall not be incorporated by reference or adopted without change if it requires an administrative body to establish:***

***(a) Specific or minimum procedures, standards, conditions, restrictions, forms or fees; or***

***(b) Permits the administrative body to impose procedures, standards, conditions, restrictions, forms or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation.***

***(2) The administrative body shall promulgate an administrative regulation complying with the federal requirements.***

***(3) The federal regulation shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation promulgated by the administrative body.***

***(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in subsection (3) of Section 7 of this Act.***

***(5) If the administrative body imposes procedures, standards, conditions, restrictions, forms or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation, it shall attach a summary of its action.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) A federal regulation shall not be incorporated by reference if it:***

***(a) Imposes specific procedures, standards, conditions, restrictions, forms or fees on regulated entities;***

***(b) Does not require or permit the administrative body to alter the specified procedures, standards, conditions, restrictions, forms or fees, or to select among alternatives; and***

***(c) Requires the administrative body to implement or to enforce such procedures, standards, conditions, restrictions, forms or fees.***

***(2) The federal regulation shall be adopted without change and shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation.***

***(3) In a separate section, an administrative regulation shall include a citation of the federal regulation, the effective date of the federal regulation and a statement that the subject matter of the administrative regulation is governed by that federal regulation.***

***(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in subsection (3) of Section 7 of this Act.***

***(5) The administrative body shall attach to the administrative regulation a summary of the federal regulation that is adopted without change.***

***(6) If the federal regulation is amended, the citation of the effective date of the federal regulation shall be amended. The administrative body shall attach to the administrative regulation a summary of the***

***federal regulation, as amended. The administrative body shall submit a copy of the federal regulation, as amended, with the administrative regulation in a binder as provided in subsection (3) of Section 7 of this Act.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

***(1) An administrative body shall divide the general subject matter of administrative regulations it promulgates into topics. A separate administrative regulation shall be promulgated for each topic.***

***(2) An administrative body shall not incorporate all material relating to a general subject matter in one (1) administrative regulation. Material incorporated by reference shall be incorporated by reference in the administrative regulation governing the specific topic to which the material relates.***

***(3) When an administrative regulation adopted prior to July 15, 1988 is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of this section.***

Section 13. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the court of justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes ***an existing administrative regulation, a proposed administrative regulation, an emergency administrative regulation and*** the amendment or repeal of ***an existing*** [~~a prior~~] administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has become effective in accordance with the provisions of this chapter;

***(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;***

***(5)*** "Commission" means the Legislative Research Commission;

***(6) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping or similar responsibilities upon entities in the Commonwealth;***

***(7) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;***

***(8)***[~~(5)~~] "Filed" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has been submitted to the commission in accordance with this chapter;

***(9)***[~~(6)~~] "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

***(10)***[~~(7)~~] "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

***(11)***[~~(8)~~] "Subcommittee" includes the administrative regulation review subcommittee, any other subcommittee of the Legislative Research Commission, [~~or~~] a standing committee of the General Assembly***, or a house and senate standing committee meeting jointly***; ***and***

***(12)***[~~(9)~~] "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities[~~;~~

~~(10) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping or similar responsibilities upon business entities in the Commonwealth; and~~

~~(11) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245~~].

Section 14. KRS 13A.032 is amended to read as follows:

A finding of noncompliance with KRS 13A.030(2)(a) made by ***a*** [~~both the administrative regulation review subcommittee and appropriate jurisdictional~~] subcommittee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding, the Legislative Research Commission may institute legal proceedings in Franklin Circuit Court.

Section 15. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of proposed administrative regulations, proposed amendment to existing administrative regulations, proposed repeal of existing administrative regulations, emergency administrative regulations, and regulatory impact analysis for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) ***Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;***

***(7)*** Prepare the Kentucky administrative regulations service;

***(8)***[~~(7)~~] Make certifications required by this chapter;

***(9) Correct errors that do not change the substance of an administrative regulation, including but not limited to typographical errors, errors in format, and grammatical errors;***

***(10)***[~~(8)~~] Refuse to accept for filing proposed administrative regulations that do not conform to the provisions of KRS 13A.222 and 13A.224, and [~~shall~~] notify the administrative body in writing of the reasons for refusing to accept a proposed administrative regulation for filing; and

***(11)***[~~(9)~~] Perform such other duties as required by the commission or by a subcommittee.

Section 16. KRS 13A.100 is amended to read as follows:

Subject to limitations in applicable statutes, any administrative body which is empowered to promulgate administrative regulations shall, by administrative regulation prescribe, consistent with applicable statutes:

(1) ***Each statement of general applicability, policy, procedure, memorandum or other form of action that implements, interprets, prescribes law or policy, describes the organization, procedure, or practice requirements of any administrative body, or affects private rights or procedures available to the public;***

***(2)*** The process for application for license, benefits available or other matters for which an application would be appropriate unless such process is prescribed by a statute;

***(3)***[~~(2)~~] Fees, except for those exempted in paragraphs (a) through (i), of this subsection, to be charged by the administrative body if such fees are authorized by law and are not set by statute:

(a) State park room rates;

(b) Prices for food in restaurants at state facilities;

(c) Prices for goods at gift shops at state facilities;

(d) Prices for groceries and other items sold at state facilities;

(e) Prices charged for state publications;

(f) Prices charged for rides and amusement activities at state facilities;

(g) Admission fees to athletic and entertainment events at state facilities;

(h) Charges for swimming, skiing, horseback riding, and similar recreational activities at state facilities; [~~and~~]

(i) Charges for boat and equipment rentals for recreational purposes at state facilities; ***and***

***(j) Admission fees charged for seminars and educational courses by state administrative bodies;***

***(4)***[~~(3)~~] The procedures to be utilized by the administrative body in the conduct of hearings by or for the administrative body unless such procedures are prescribed by a statute; and

***(5)***[~~(4)~~] The disciplinary procedures within the jurisdiction of the administrative body unless such procedures are prescribed by statute.

Section 17. KRS 13A.110 is amended to read as follows:

Subject to limitations in applicable statutes, any administrative body which is empowered to promulgate administrative regulations may, consistent with applicable statutes, prescribe forms ***and tables*** for use by the administrative body and for the public in dealing with the administrative body unless the content of such form is prescribed by a statute. ***Forms that are required to be submitted by a regulated entity shall be included in an administrative regulation. Forms and tables that meet the requirements of Section 6 of this Act may be incorporated by reference.***

Section 18. KRS 13A.120 is amended to read as follows:

(1) An administrative body may adopt administrative regulations to implement a statute only when the act of the General Assembly creating or amending the statute specifically authorizes the adoption of such regulations or such regulations are required by federal law, in which case such regulations shall be no more stringent than the federal law or regulations.

***(2)*** [~~, but~~] An administrative body shall not promulgate administrative regulations:

(a) When a statute prohibits the administrative body from promulgating administrative regulations;

(b) When the administrative body is not authorized by statute to promulgate administrative regulations;

(c) When a statute prohibits the administrative body from regulation of that particular matter;

(d) When the administrative body is not authorized by statute to regulate that particular matter;

(e) When a statute prescribes the same or similar procedure for the matter regulated;

(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;

(g) On any matter which is not clearly within the jurisdiction of the administrative body;

(h) On any matter which is beyond the statutory authorization of the administrative body to promulgate administrative regulations or which is not clearly authorized by statute; and

(i) Which modify or vitiate a statute or its intent.

***(3) If a statute requires the submission of a proposed administrative regulation to an official or another administrative body for review or approval, an administrative body shall not file an administrative regulation without first having obtained such review or approval.***

***(4)***[~~(2)~~] Any administrative regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

***(5)***[~~(3)~~] No administrative body, other than the Court of Justice shall issue rules.

***(6)***[~~(4)~~] No administrative body shall issue standards or by any other name issue a document of any type where an administrative regulation is required or authorized by law.

Section 19. KRS 13A.150 is amended to read as follows:

(1) When any section of this chapter requires that an action be taken at a specified date with regard to filing of items to the commission, they shall be filed on or before 12:00 noon, eastern time, on the specified date.

(2) When any section of this chapter requires that an action be taken at a specified date and the specified date falls on a Saturday, Sunday or holiday, the action shall be taken ***on or before 12:00 noon, eastern time,*** on the working day immediately preceding the Saturday, Sunday or holiday.

Section 20. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ***one hundred twenty (120)*** [~~ninety (90)~~] days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) ***Each emergency administrative regulation shall contain a statement of:***

***(a) The nature of the emergency;***

***(b) The reasons why an ordinary administrative regulation is not sufficient;***

***(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;***

***(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and***

***(e) If applicable, the explanation required by subsection (5) of this section.***

***(7) An administrative body shall attach the statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation.***

***(8) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."***

***(9) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.***

***(10) (a)*** If it is intended that ***the subject matter of*** an emergency administrative ***regulation*** [~~regulation's subject matter~~] remain in effect ***longer than one hundred twenty (120) days after publication of the emergency administrative regulation***, the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation.

***(b) If*** [~~When~~] such an ordinary administrative regulation has been filed and is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

***(c) If such an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.***

***(11) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.***

***(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.***

***(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.***

***(12)***[~~(7)~~] ***A*** [~~The administrative regulation review subcommittee or subsequently assigned~~] subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be revoked.

[~~(8) Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor.~~

~~(9) An administrative body shall attach the statement of emergency required by subsections (5) and (8) of this section to the front of the original and each copy of a proposed emergency administrative regulation. A space no smaller than two (2) by three (3) inches in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."~~

~~(10) Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the Governor.~~]

Section 21. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies may use any number of tiers they feel will solve most effectively the problem the administrative regulation addresses. [~~If the administrative body does not tier its administrative regulations,~~] A written statement must be submitted to the Legislative Research Commission explaining why tiering ***was or*** was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables; and

(h) Reduce or modify fine schedules for noncompliance.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and non-size variables. Size variables include number of citizens, number of employes, level of operating revenues, level of assets and market shares. Non-size variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 22. KRS 13A.220 is amended to read as follows:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file the original and five (5) copies of a proposed administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) A proposed amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky administrative regulations service or the administrative register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of a proposed administrative regulation shall be as follows:

(a) A proposed administrative regulation shall be typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches and shall be double-spaced. Copies of the proposed administrative regulation may be mechanically reproduced;

(b) A space no smaller than ***four (4) inches wide by two (2) inches long*** [~~two (2) by three (3) inches~~] in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the proposed administrative regulation;

(c) The cabinet, department and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(Proposed Amendment)" or "(Amended After Hearing)," whichever is applicable. If a proposed administrative regulation is new, ***the notation shall read "(Proposed Administrative Regulation)"*** [~~no notation is necessary~~];

(d) The notation shall be followed by the number and title of the proposed administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new proposed administrative regulation;

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list any statutes and other enactments, including appropriation acts or executive orders, to which the proposed administrative regulation relates or which shall be affected by the proposed administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the proposed administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.224; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the proposed administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g. (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of a proposed administrative regulation, the administrative body shall include the following information:

(a) ***If the provisions of subsection (3) of Section 18 of this Act are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.***

***(b)*** The authorizing signature of the administrative body promulgating the proposed administrative regulation, and the date on which the administrative body approved the promulgation;

***(c)***[~~(b)~~] The signature of ***an*** [~~the~~] attorney [~~officially representing the administrative body,~~] certifying that he has examined and approved the proposed administrative regulation as to form; [~~and~~]

***(d)***[~~(c)~~] Information relating to public hearings as required by KRS ***13A.160 and*** 13A.270.

***(e) The name of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:***

***1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;***

***2. Negotiate changes in language with a subcommittee in order to resolve such issues; and***

***3. Answer questions relating to the administrative regulation.***

Section 23. KRS 13A.222 is amended to read as follows:

(1) In a new proposed administrative regulation, there shall be no underlining or bracketing.

(2) In all proposed amendments to administrative regulations, the proposed new words shall precede the proposed deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all proposed new words; and

(b) Place the proposed deleted words in brackets and strike through these words [~~with hyphens~~].

(3) ***(a)*** No administrative regulation shall be amended by reference to a section only. A proposed amendment shall contain the full text of the administrative regulation being amended.

***(b) A section of an administrative regulation shall not be reserved for future use.***

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation or prohibition shall be expressed by "shall" or "shall not." "Should," "could" or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or[~~;~~]"***, and shall not separate alternatives with a slash. It shall not use contractions.*** When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed in the first section of a proposed administrative regulation ***or in a separate administrative regulation. The*** [~~This~~] section ***or administrative regulation*** shall be titled "Definitions." ***If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of a specific chapter of the Kentucky administrative regulations service. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky administrative regulations service to which the definitions apply.*** In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

2. To avoid repetition of a phrase; or

3. To limit or extend the provisions of a proposed administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however.***" "If" shall be used to express conditions, rather than the words "when" or "where;***"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

| Do Not Use: | Use: |
|---|---|
| And/or | "and" for a conjunctive<br>"or" for a disjunctive |
| Any and all | either word |
| As provided in this administrative regulation | — |
| At the time | when |
| And the same hereby is | is |
| Either directly or indirectly | — |
| Except where otherwise provided | state specific exemption |
| Final and conclusive | final |
| Full force and effect | force or effect |
| In the event that; In case | if |
| Is authorized; Is empowered | may |
| Is defined and shall be construed to mean | means |
| Is hereby required to | shall |

| | |
|---|---|
| It shall be lawful | may |
| Latin words | do not use unless medical or scientific terminology |
| Null and void and of no effect. | void. |
| Order and direct | either word |
| Provision of law | law |
| Until such time as | until |
| Whenever | if |

(l) Unless the authority for an administrative regulation is an appropriation act that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of a proposed administrative regulation shall be cited. If an act has not been codified at the time a proposed administrative regulation is promulgated, or if the authority is an appropriation act, the citation shall be as follows: "Acts (year), Chapter (chapter number), Section (section number)." ***When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.***

Section 24. KRS 13A.224 is amended to read as follows:

[~~(1) An administrative body may incorporate by reference:~~

~~(a) Material that is copyrighted by the Commonwealth of Kentucky or one of its administrative bodies; and~~

~~(b) Material that is unduly cumbersome, bulky or expensive to publish.~~

~~(2)~~] No material shall be incorporated by reference unless:

***(1)***[~~(a)~~] The material incorporated by reference relates only to the specific subject matter governed by an administrative regulation;

***(2)***[~~(b)~~] The material has been reviewed in detail by the administrative body;

***(3)***[~~(c)~~] No statute, state or federal regulation prescribes the same or similar procedure, or sets forth a comprehensive scheme of regulation of the subject matter; and

***(4)***[~~(d)~~] Its incorporation is necessary in order to:

***(a)***[~~1.~~] Implement, interpret or prescribe law or policy authorized or required by statute;

***(b)***[~~2.~~] Establish or describe the organization, procedure or practice requirements authorized or required by statute.

[~~(3) An administrative regulation incorporating material by reference shall include:~~

~~(a) The effective date of the material incorporated by reference;~~

~~(b) Information on how the material may be obtained; and~~

~~(c) A statement that the material is available for public inspection and copying at the main, regional or branch offices of the administrative body, and the address and office hours of each.~~

~~The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.~~

~~(4) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:~~

~~(a) Relevant programs, statutes, funds, rights, duties and procedures affected by the material and the manner in which they are affected;~~

~~(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and~~

~~(c) The total number of pages incorporated by reference.~~

~~(5) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed. Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type the number of a proposed administrative regulation to which material incorporated by reference pertains and the date on which it is filed on the front binder cover and on the first page of the material incorporated by reference.~~

~~(6) Federal statutes shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.~~

~~(7) If a federal regulation is adopted without change by the administrative body:~~

~~(a) It shall not be incorporated by reference, but shall be cited as provided by subsection (6) of this section; and~~

~~(b) In a separate section, an administrative regulation shall include a statement that the subject matter of the administrative regulation is governed by that federal regulation.~~

~~(8) If a federal regulation is adopted with changes by the administrative body, it shall be incorporated by reference.~~

~~(a) A proposed administrative regulation that adopts a federal regulation with changes shall contain a separate section stating that the subject matter of the administrative regulation is governed by that federal regulation as changed by the administrative body.~~

~~(b) The administrative body shall file with the regulations compiler:~~

~~1. A copy of the federal regulation in which the changes have been made in the manner specified in KRS 13A.222;~~

~~2. An entire new document in which the changes have been made but are not reflected in the manner specified in KRS 13A.222; and~~

~~3. A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation.~~

~~(9) When a proposed administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:~~

~~(a) An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222;~~

~~(b) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation; and~~

~~(c) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in KRS 13A.222.~~

~~(10) (a) An administrative regulation shall not incorporate all material relating to a general subject matter in one (1) proposed administrative regulation. An administrative body shall divide the subject matter into topics. Each such separate administrative regulation shall be limited to the specific topic to which the material relates. Material incorporated by reference shall be incorporated by reference in a proposed administrative regulation governing the specific topic to which the material relates.~~

~~(b) When an administrative regulation adopted prior to July 15, 1988, is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of this section.~~]

Section 25. KRS 013A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of a proposed administrative regulation:

(a) Regulatory impact analysis;

(b) ***Tiering statement*** [~~If the administrative regulation was not tiered, a written statement as to why tiering was not used. The written statement shall be included in the space provided for this purpose on the regulatory impact analysis~~];

(c) Local mandate impact statement, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable; and

(e) The summaries provided for in KRS 13A.224, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 26. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date the administrative body shall give consideration to all written and oral comments received, whether at the hearing or otherwise, regarding the proposed administrative regulation, proposed amendment to an administrative regulation or repeal of an administrative regulation.

(2) The administrative body shall then file with the commission ***on or before*** [~~by~~] 12 noon, eastern time, on the fifteenth (15th) day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) If the proposed administrative regulation, proposed amendment of an administrative regulation, or repeal of an administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the following to the regulations compiler by noon on the fifteenth day following the hearing:

(a) The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise; [~~and~~]

(b) The original and five (5) copies of the statement of consideration as required by subsection (2) of this section***; and***

***(c) The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.***

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment" and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing; [~~and~~]

(h) If the promulgating administrative body amends the proposed administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement***; and***

***(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.***

(5) ***(a)*** If the proposed administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

***(b) If the statement of consideration is not forwarded to the regulations compiler at least five (5) working days prior to a meeting of the administrative regulation review subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.***

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text ***of the administrative regulation*** shall be published in the administrative register. ***The administrative regulation shall be reviewed by the administrative regulation review subcommittee after such publication.***

***(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.***

Section 27. KRS 13A.290 is amended to read as follows:

(1) ***Within forty-five days after publication of an administrative regulation in "The Administrative Register", or*** within forty-five (45) days of the receipt of ***a*** [~~the~~] statement of consideration the administrative regulation review subcommittee shall meet to review the administrative regulation. ***The administrative regulation review subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3).***

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the ***administrative regulation review subcommittee*** meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the commission the administrative regulation review subcommittee shall forward to the commission its findings, recommendations, or other comments [~~as~~] it deems appropriate in writing. ***The administrative regulation review subcommittee shall also forward to the commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed.*** One copy thereof shall be sent to the promulgating agency. The administrative regulation review subcommittee's findings shall be published in the administrative register.

(6) After review by the administrative regulation review subcommittee, the commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter [~~making up the substance of the regulation~~].

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. ***The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date and place of the meeting shall be placed in the legislative calendar.***

(8) ***An administrative body shall comply with subsection (4) of this section.***

***(9)*** The subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the administrative regulation review subcommittee as provided in KRS 13A.030(2) and (3).

***(10)***[~~(9)~~] Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments [~~as~~] it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

Section 28. KRS 013A.300 is amended to read as follows:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of ***a*** [~~the administrative regulation review subcommittee or subsequently assigned~~] subcommittee that consideration of the administrative regulation be deferred by such subcommittee.

[~~(2)~~] Upon receipt of the request the subcommittee ***may*** [~~shall~~] defer consideration of the proposal.

***(2)***[~~(3)~~] The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as an action under KRS 13A.310.

***(3)***[~~(4) Except as provided by this chapter,~~] A subcommittee ***may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request the promulgating administrative body may agree to defer consideration of the administrative regulation*** [~~shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation~~].

***(4)***[~~(5)~~] Except as provided in subsections (1) to ***(3)*** [~~(4)~~] of this section, neither the promulgating administrative body, the commission, nor ***a*** [~~the administrative regulation review subcommittee or subsequently assigned~~] subcommittee shall defer any action which is required to be taken pursuant to this chapter.

Section 29. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. ***If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.***

(4) Once a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

(5) ***An administrative regulation that has been deferred shall be placed*** [~~If the administrative body defers action on a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation and subsequently determines that the proposal should go into effect without amendment, the administrative body shall, before the deadline for publication in the administrative register, notify the regulations compiler who shall publish the determination in the administrative register and place the matter~~] on the agenda of the next scheduled meeting of the [~~administrative regulation review subcommittee or subsequently assigned~~] subcommittee ***that is reviewing the administrative regulation***. Such subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 30. KRS 13A.320 is amended to read as follows:

(1) ***(a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.***

***(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was:***

***1. Related to the proposed administrative regulation or the proposed amendment to an existing administrative regulation filed with the Legislative Research Commission; and***

***2. Considered at the public hearing; or***

***3. Raised by the subcommittee.*** [~~When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the administrative regulation review subcommittee or subsequently assigned subcommittee,~~]

***(c)*** Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee the following requirements shall be met:

(a) ***Amendments proposed by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body;***

***(b)*** Amendments ***initiated by the administrative body*** shall be contained in a ***letter*** [~~memorandum~~] to the subcommittee, shall identify the administrative body, and shall state the number of the administrative regulation and the date. ***Such*** amendments shall be filed with the regulations compiler ***at least five (5) working days prior to*** [~~as soon as possible before~~] the meeting of the subcommittee;

***(c)***[~~(b)~~] The number of the section and subsection to which the amendment applies shall precede the amendment and shall be underlined; and

***(d)***[~~(c)~~] If a word or phrase is to be deleted, the amendment shall identify the word or phrase to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase with which it is replaced. Example: Section 5, subsection (3): The word "qualify" before the phrase "of the internship program" is deleted. The word "quality" is inserted in lieu of the word "qualify."

Section 31. KRS 13A.330 is amended to read as follows:

(1) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day a subcommittee meets to consider the proposal pursuant to KRS 13A.290(7).

(2) Where a subcommittee fails to meet within thirty (30) days of assignment of a proposed regulation as provided in KRS 13A.290(7), the proposed regulation, amendment or repeal thereof shall become effective as of the expiration of such thirty (30) day period.

[~~(3) Any regulation which became effective or contains an amendment which became effective subsequent to a finding by either the administrative regulation review subcommittee or subsequently assigned subcommittee that the regulation or amendment thereto was deficient as provided in KRS 13A.030(2)(a), shall be effective only until the effective date for acts of the next succeeding regular session of the General Assembly on which date it shall expire, unless enacted into statute by the regular session of the General Assembly following its adoption.~~

~~(4) Any administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to the provisions of subsection (3) of this section shall prepare legislation proposing the enactment of such administrative regulation into statute by the next regular session of the General Assembly. Such legislation shall be submitted to the Legislative Research Commission and may be introduced by any member of the General Assembly.~~

~~(5) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.~~

~~(6) An administrative body shall be prohibited from promulgating any administrative regulation that is identical to or substantially the same as a regulation which has expired or is subject to expiration pursuant to subsection (3) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.~~]

Section 32. The following KRS sections are repealed:

13A.340 Notification of administrative regulations filed prior to July 14, 1984, which are to remain in effect — Procedure — Repeal of administrative regulations for which no notice is received by July 1, 1985.

The Committee on Health and Welfare reported **HB 165** with Committee Substitute attached thereto, **HB 450** with Committee Substitute and Committee Amendment attached thereto, **HB 485** with Committee Amendment attached thereto, **HB 506** with Committee Substitute attached thereto, **HB 542** with Committee Substitute attached thereto, **HB 633**, **HB 670** with Committee Amendment attached thereto, **HB 704**, **HB 709**, **HCR 122**, **HJR 137**, **HCR 139** and **HCR 146** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 165**, AN ACT relating to the prevention of the spread of the human immunodeficiency virus (HIV).

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

***(1) The Cabinet for Human Resources, Department for Health Services and Department for Mental Health and Mental Retardation Services, shall develop a state plan to prevent the spread of the human immunodeficiency virus (HIV), the virus which causes acquired immune deficiency syndrome (AIDS).***

***(2) Each district and local health department shall, in consultation with the Cabinet for Human Resources, develop a local plan to prevent the spread of the human immunodeficiency virus.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***Every physician who, during the course of an examination of a patient, discovers the existence of the patient's exposure to the human immunodeficiency virus (HIV) or who treats a patient for HIV infection shall counsel and interpret any laboratory test results, and provide information about HIV transmission and risk reduction practices, including measures for preventing the infection of others with the virus. Every physician who diagnoses a patient as having acquired immune deficiency syndrome (AIDS) or the AIDS related complex shall provide information to the patient regarding measures for preventing the infection of others with the HIV virus.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

***The Department of Personnel, in cooperation with the Cabinet for Human Resources, shall develop, coordinate and implement an acquired immune deficiency syndrome education program for employees of the Commonwealth.***

The Committee Substitute to **HB 165** is as follows:

**HB 165**, AN ACT relating to the prevention of the spread of the human immunodeficiency virus (HIV).

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

***The Cabinet for Human Resources shall develop and periodically update a state plan to prevent the spread of the human immunodeficiency virus (HIV), the virus which causes acquired immune deficiency syndrome (AIDS).***

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***Every attending physician who, during the course of treatment of a patient, discovers the existence of the patient's exposure to the human immunodeficiency virus (HIV) or who has ordered the performance of medical procedures or tests to determine whether the patient has been exposed to the HIV virus or who treats a patient for HIV infection shall be responsible for either:***

***(1) Providing information and counseling to the patient concerning the patient's infection or diagnosis and the known medical implications of such status or condition; or***

***(2) Referring the patient to another appropriate professional or health care facility for the information and counseling.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

***The Department of Personnel, in cooperation with the Cabinet for Human Resources, shall develop, coordinate and implement an acquired immune deficiency syndrome education program for employees of the Commonwealth.***

**HB 450,** AN ACT relating to payment of insurance benefits to mandate reimbursement which allows for consumer choice among duly licensed service providers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every individual health insurance policy issued, delivered or renewed in this state which provides coverage on an expense incurred basis for any service within the lawful scope of practice of a duly licensed mental health professional shall be deemed to entitle the policyholder, or other person entitled to such benefits under the policy, to payment of or reimbursement for the cost of any such service, not in excess of the coverage limits, regardless of provider profession.***

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every policy of group or blanket health insurance issued, delivered or renewed in this state which provides coverage on an expense incurred basis for any service within the lawful scope of practice of a duly licensed mental health professional shall be deemed to entitle the policyholder, or other person entitled to such benefits under the policy, to payment of or reimbursement for the cost of any such service, not in excess of the coverage limits, regardless of provider profession.***

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every policy, contract or plan issued, delivered or renewed in this state by a non-profit hospital, medical-surgical, dental or health service corporation which provides coverage for services which can be lawfully performed within the scope of the license of a duly licensed mental health professional shall be deemed to provide benefits for those services regardless of provider profession. If the policy, contract or plan so provides, payment may be made directly to the provider of the services, but if it does not so provide, the person entitled to these benefits shall be entitled to reimbursement for the cost of services received.***

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every policy, contract, agreement, or certificate entered into, issued or delivered by a health maintenance organization which provides coverage for services which can be lawfully performed within the scope of the license of a duly licensed mental health professional, shall be deemed to provide benefits for those services regardless of provider profession. If the policy, contract or agreement so provides, payment may be made directly to the provider of the services, but if it does not so provide, the person entitled to those benefits shall be entitled to reimbursement for the cost of services received.***

The Committee Substitute to **HB 450** is as follows:

**HB 450,** AN ACT relating to payment of insurance benefits to mandate reimbursement which allows for consumer choice among duly licensed service providers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every individual health insurance policy issued, delivered or renewed in this state which provides coverage on an expense incurred basis for any service within the lawful scope of practice of a psychologist as defined by KRS Chapter 319 or a social worker as defined by KRS Chapter 335 shall be deemed to entitle the policyholder, or other person entitled to such benefits under the policy, to payment of or reimbursement for the cost of any such service, not in excess of the coverage limits, regardless of provider profession.***

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every policy of group or blanket health insurance issued, delivered or renewed in this state which provides coverage on an expense incurred basis for any service within the lawful scope of practice of a psychologist***

as defined by KRS Chapter 319 or a social worker as defined by KRS Chapter 335 shall be deemed to entitle the policyholder, or other person entitled to such benefits under the policy, to payment of or reimbursement for the cost of any such service, not in excess of the coverage limits, regardless of provider profession.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every policy, contract or plan issued, delivered or renewed in this state by a non-profit hospital, medical-surgical, dental or health service corporation which provides coverage for services which can be performed within the lawful scope of practice of a psychologist as defined by KRS Chapter 319 or a social worker as defined by KRS Chapter 335 shall be deemed to provide benefits for those services regardless of provider profession. If the policy, contract or plan so provides, payment may be made directly to the provider of the services, but if it does not so provide, the person entitled to these benefits shall be entitled to reimbursement for the cost of services received.***

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Every policy, contract, agreement, or certificate entered into, issued or delivered by a health maintenance organization which provides coverage for services which can be performed within the lawful scope of practice of a psychologist as defined by KRS Chapter 319 or a social worker as defined by KRS Chapter 335, shall be deemed to provide benefits for those services regardless of provider profession. If the policy, contract or agreement so provides, payment may be made directly to the provider of the services, but if it does not so provide, the person entitled to those benefits shall be entitled to reimbursement for the cost of services received.***

The Committee Amendment No. 1 to the Committee Substitute to **HB 450** is as follows:

Amend printed copy of HCS to **HB 450** on page 1, line 12, after "***profession.***" by inserting

"***Nothing in this section shall require an individual health insurance policy which places the insured within a preferred or exclusive provider arrangement to cover services provided by a provider with whom the insurer does not have a contract, or to make payment of or reimbursement for the cost of any such service which is not subject to the coverage provisions and limitations of the policy.***"

And on page 2, line 5, after the word "***profession.***" by inserting

"***Nothing in this section shall require a group or blanket health insurance policy which places the insured within a preferred or exclusive provider arrangement to cover services provided by a provider with whom the insurer does not have a contract, or to make payment of or reimbursement for the cost of any such service which is not subject to the coverage provisions and limitations of the policy.***"

And on page 2, line 20, after the word "***received.***" by inserting

"***Nothing in this section shall require such a health insurance policy to cover services which places the insured within a preferred or exclusive provider arrangement to cover services provided by a provider with whom the insurer does not have a contract, or to make payment of or reimbursement for the cost of any such service which is not subject to the coverage provisions and limitations of the policy.***"

And on page 2, lines 21-26,

By deleting lines 21 through 26 in their entirety.

And on page 3, lines 1-8,

By deleting lines 1 through 8 in their entirety.

**HB 485,** AN ACT relating to funding for child abuse prevention programs through a fee on vital statistics activities and services.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 213.190 is amended to read as follows:

(1) The cabinet for human resources shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such cabinet as provided by law when the cabinet is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. Any such certified copy shall be prima facie evidence of the facts therein stated.

(2) The applicant shall pay a reasonable fee set by regulation promulgated by the secretary for human resources which shall not exceed four dollars ($4) for a copy of a ***marriage, divorce*** [~~death~~] or other certificate or search of the files, if no copy is found. The applicant shall pay a fee of five dollars ($5) for a copy of a birth ***or death*** certificate, one dollar ($1) of which shall be collected for use by the cabinet for human resources for the sole purpose of contracting for the operation of private, not for profit self-help groups for parents who want to prevent or cease their physical, sexual or mental abuse of their children.

(3) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the army, navy, marine corps or air force of the United States.

(4) The cabinet shall notify the state board of elections, monthly, of the name, address, birth date, sex, race, and social security number of residents of the Commonwealth who died during the previous month. Such data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing such lists.

The Committee Amendment No. 1 to **HB 485** is as follows:

Amend printed copy of **HB 485** on page 1, line 13, by deleting the words "***marriage , divorce***";

And on page 1, line 13, by deleting the bracket after the word "[~~death~~]" and inserting a bracket after the words "or other" and placing strikethroughs therein.

**HB 506**, AN ACT relating to court appointed special advocates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***As used in this Act:***

***(1) "Project" means a program by which a court appointed special advocate provides trained community volunteers to represent the best interests of children who have come into the court system as a result of abuse or neglect.***

***(2) "Volunteer" means a person who completes training through a project and is appointed by a judge to represent the best interests of abused and neglected,children in court.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***(1) For the purpose of providing an independent, efficient and thorough representation for children who enter the court system as a result of abuse and neglect, there may be established a court appointed special advocate project by the chief district judge within each judicial district.***

***(2) Local projects shall be managed by a qualified director whose service may be voluntary or who may be paid a salary. The director's duties shall include:***

***(a) Administration of the project;***

***(b) Recruitment, screening, training and supervision of volunteers; and***

***(c) Facilitation of the performance of the court appointed special advocates duties.***

***(3) Volunteers appointed by the director shall, as far as practicable, be representative of the socioeconomic, racial and ethnic composition of the area served.***

***(4) Volunteers may be removed for nonparticipation or other cause.***

***(5) All written court appointed special advocate reports shall become part of the cabinet's record of the child.***

***(6) Employees of the cabinet shall not become volunteers or employees of the court appointed special advocate program.***

***(7) Each volunteer and project director shall take an oath, administered by a member of the Court of Justice, to keep confidential all information related to the appointed case except in reports to the court, the Foster Care Review Board and as provided by law.***

***(8) Volunteers shall be appointed by the presiding judge to represent the best interest of the child, after the volunteer has been screened, trained and certified by the project director.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) Secretarial and support services for each project may be provided by the District Court or the circuit clerk, or both, as ordered by the chief district judge.*

*(2) Projects may receive state and federal funding to insure total or partial funding of the project's activities.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) In order to qualify as a volunteer, an applicant shall be at least eighteen (18) years of age and a review of his criminal record shall be conducted. If found acceptable, he shall receive a minimum of fifteen (15) hours of initial training and take an oath of confidentiality.*

*(2) Training, both initial and in-service, of volunteers shall be provided by the project director or staff following standards adopted pursuant to Section 8 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) The district court clerks shall notify and provide a copy of all dependency, abuse and neglect petitions to the project director, as soon as the petitions are filed.*

*(2) Each volunteer shall have full and immediate access to any information and records of the cabinet pertaining to the parents or persons exercising custodial control or supervision of the child assigned to the volunteer. The volunteer shall also have access to any information and records of the court; the cabinet; public and private child care facilities; private and public schools; and medical and psychological records of the child assigned to the volunteer. He shall have access to the medical and psychological records of parents when the court determines that the information is essential to the welfare of the child and the court orders it.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) Volunteers who have a conflict of interest in a case shall not be appointed to the case.*

*(2) The volunteer shall:*

*(a) Advocate a prompt, thorough review of the case if the child needs attention;*

*(b) Maintain complete written records about the case;*

*(c) Report any incidents of child abuse or neglect to the director or appropriate authorities;*

*(d) Interview parties involved in the case, including interviewing and observing the child;*

*(e) Determine whether "reasonable efforts" were made to provide services to the child and family, and whether a permanent plan has been created for the child;*

*(f) Assure the child's best interests are being represented at every stage of the disposition of the case, including attendance at all court hearings, and making a written recommendation to the judge on what decision would be best for the child;*

*(g) Monitor the case by visiting the child as often as necessary to observe whether the child's essential needs are being met, and whether court orders are actually being carried out;*

*(h) Participate in any planning or treatment team meetings involving the child in order to keep informed of the child's permanent plan;*

*(i) Remain actively involved in the case until the case is permanently resolved unless dismissed by the project director; and*

*(j) Work in cooperation with the cabinet.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) A state Court Appointed Special Advocate Association may be established. Membership shall be open to all volunteers, project directors and staff.*

*(2) The association shall meet annually to elect a board of directors to manage the business of the association. The board shall, annually, elect a president, a vice-president, a secretary and a treasurer. The board shall meet at least four (4) times a year, and meetings may be held more frequently when called by the president of the board or by a majority of the board members.*

***(3) Board members shall receive no compensation. They shall receive travel mileage costs and overnight lodging costs at the rate provided for state employees by the Commonwealth.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***The association shall:***

***(1) Adopt and approve state standards for all volunteers and adopt guidelines for training;***

***(2) Evaluate and make annual recommendations to the Supreme Court, Governor and the Legislative Research Commission regarding:***

***(a) Laws of the Commonwealth and practices, policies and procedures within the Commonwealth affecting the welfare of children; and***

***(b) The effectiveness, or lack thereof, and the reasons therefor, of local volunteers advocating for permanent placement for the children in the Commonwealth.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***(1) Secretarial and support services for the association board may be provided by the Administrative Office of the Courts.***

***(2) The association may receive state and federal funds to insure total or partial funding of the board's activities.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***Each project shall forward annually to the association a report and any recommendations regarding:***

***(1) The policies and practices of the court, the cabinet and child-care facilities and child placement agencies affecting the children being represented by the volunteers; and***

***(2) The progress of the project, including numbers of active volunteers and numbers of children served.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***The cabinet shall notify the volunteer and the court when it schedules planning and treatment team conferences.***

The Committee Substitute to **HB 506** is as follows:

**HB 506**, AN ACT relating to court appointed special advocates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***As used in this Act:***

***(1) "Project" means a program by which a court appointed special advocate provides trained community volunteers to represent the best interests of children who have come into the court system as a result of dependency, abuse or neglect.***

***(2) "Volunteer" means a person who completes training through a project and is appointed by a judge to represent the best interests of dependent, abused and neglected children in court.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***(1) For the purpose of providing an independent, efficient and thorough representation for children who enter the court system as a result of dependency, abuse and neglect, there may be established a court appointed special advocate project by the chief district judge within each judicial district.***

***(2) Local projects shall be managed by a qualified director whose service may be voluntary or who may be paid a salary. The director's duties shall include:***

***(a) Administration of the project;***

***(b) Recruitment, screening, training and supervision of volunteers; and***

***(c) Facilitation of the performance of the court appointed special advocates duties.***

*(3) Volunteers shall, as far as practicable, be representative of the socioeconomic, racial and ethnic composition of the area served.*

*(4) Volunteers may be removed by the court or the director for nonparticipation or other cause.*

*(5) All written court appointed special advocate reports shall become part of the cabinet's record of the child.*

*(6) Employees of the cabinet shall not become volunteers or employees of the court appointed special advocate program.*

*(7) Each volunteer and project director shall take an oath, administered by a member of the Court of Justice, to keep confidential all information related to the appointed case except in reports to the court, those designated by the court, the cabinet, the Foster Care Review Board and as provided by law.*

*(8) Volunteers shall be appointed by the presiding judge to represent the best interest of the child, after the volunteer has been screened, trained and certified by the project director.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) Secretarial and support services for each project may be provided by the District Court or the circuit clerk, or both, as ordered by the chief district judge.*

*(2) Projects may receive state and federal funding to insure total or partial funding of the project's activities.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) In order to qualify as a volunteer, an applicant shall be at least eighteen (18) years of age and a review of his criminal record shall be conducted. If found acceptable, he shall receive a minimum of fifteen (15) hours of initial training and take an oath of confidentiality.*

*(2) Training, both initial and in-service, of volunteers shall be provided by the project director or staff following standards adopted pursuant to Section 8 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) The district court clerks shall notify and provide a copy of all dependency, abuse and neglect petitions to the project director, as soon as the court makes a referral to the project director.*

*(2) With court approval, each volunteer may have access to information and records of the cabinet pertaining to the parents or persons exercising custodial control or supervision of the child assigned to the volunteer, information and records of the court; the cabinet; public and private child care facilities; private and public schools; and medical and psychological records of the child assigned to the volunteer. The volunteer shall have access to the medical and psychological records of parents when the court determines that the information is essential to the welfare of the child and the court orders it.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

*(1) Volunteers who have a conflict of interest in a case shall not be appointed to the case.*

*(2) The volunteer shall:*

*(a) Advocate a prompt, thorough review of the case if the child needs attention;*

*(b) Maintain complete written records about the case;*

*(c) Report any incidents of child abuse or neglect to the appropriate authorities and to the director;*

*(d) Interview parties involved in the case, including interviewing and observing the child;*

*(e) Assess whether "reasonable efforts" were made to provide services to the child and family, and whether a permanent plan has been created for the child;*

*(f) Assure the child's best interests are being represented at every stage of the disposition of the case, including attendance at all court hearings, and making a written recommendation to the judge on what decision would be best for the child;*

*(g) Monitor the case by visiting the child as often as necessary to observe whether the child's essential needs are being met, and whether court orders are actually being carried out;*

***(h) Participate in any treatment planning, conferences and reviews involving the child in order to keep informed of the child's permanent plan;***

***(i) Remain actively involved in the case until the case is resolved or unless dismissed by the project director or district judge; and***

***(j) Work in cooperation with the cabinet.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***(1) A state Court Appointed Special Advocate Association may be established. Membership shall be open to all volunteers, project directors and staff.***

***(2) The association shall meet annually to elect a board of directors to manage the business of the association. The board shall, annually, elect a president, a vice-president, a secretary and a treasurer. The board shall meet at least four (4) times a year, and meetings may be held more frequently when called by the president of the board or by a majority of the board members.***

***(3) Board members shall receive no compensation. They shall receive travel mileage costs and overnight lodging costs at the rate provided for state employees by the Commonwealth.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***The association shall:***

***(1) Adopt and approve state standards for all volunteers and adopt guidelines for training;***

***(2) Evaluate and make annual recommendations by August 1 to the Supreme Court, Governor and the Legislative Research Commission and cabinet regarding:***

***(a) Laws of the Commonwealth and practices, policies and procedures within the Commonwealth affecting the welfare of children and families; and***

***(b) The effectiveness, or lack thereof, and the reasons therefor, of local volunteers advocating for permanent placement for the children in the Commonwealth.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***(1) Secretarial and support services for the association board may be provided by the Administrative Office of the Courts.***

***(2) The association may receive state and federal funds to insure total or partial funding of the board's activities.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***Each project shall forward annually to the association and cabinet a report and any recommendations regarding:***

***(1) The policies and practices of the court, the cabinet and child-care facilities and child placement agencies affecting the children being represented by the volunteers; and***

***(2) The progress of the project, including numbers of active volunteers and numbers of children served.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***The cabinet shall notify the volunteer and the court when it schedules treatment planning conferences and reviews.***

Section 12. KRS 605.050 is amended to read as follows:

(1) In counties containing a city of the first or second class, the county judge/executive may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge/executive but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers who shall possess all the powers of peace officers in carrying out the purposes of KRS Chapters 600 to 645. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his probation.

(2) In counties containing an urban-county government, the mayor shall appoint a chief probation officer of the juvenile session of the district court and such number of assistant probation officers, professional and clerical personnel as are reasonably necessary for the operation of the juvenile session of the district court. Such officers shall receive reasonable salaries to be fixed by the urban-county council, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the urban-county treasury. The officers shall serve at the pleasure of the mayor but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers who shall possess all the powers of peace officers in carrying out the purposes of KRS Chapters 600 to 645. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his probation.

(3) In any county, the chief district judge may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers [~~or court appointed special advocates~~] of the juvenile session. Such volunteer probation officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court or the urban-county council, as appropriate, may authorize the payment of compensation and reasonable expenses out of the county or urban-county treasury of any such officers. [~~No court appointed special advocate shall receive compensation from state or county funds but reasonable expenses may be paid.~~]

Section 13. The following KRS sections are repealed:

208.335 Duties of court appointed special advocates.

605.070 Duties of court appointed special advocates.

**HB 542**, AN ACT relating to child day-care.

WHEREAS, more than half of all mothers with children under the age of six are currently in the workforce; and

WHEREAS, labor economists predict a skilled labor shortage in the 1990s which is likely to result in an ever-increasing reliance of businesses on the participation of women in the workforce; and

WHEREAS, today the heads of many single-parent and two-parent households must work out of economic necessity; and

WHEREAS, a University of Kentucky report found that a single parent needs to earn a salary of more than $9.00 an hour to support himself and two preschoolers if the parent needs to purchase child care; and

WHEREAS, a University of Kentucky study reported that assistance with the cost of child care for low-income working parents increases employment and enables parents to remain independent of public assistance programs; and

WHEREAS, child care has become an increasingly important issue for working parents, businesses and policy makers; and

WHEREAS, the Commonwealth of Kentucky should serve as a role model for private businesses by responding to the child care needs of their employees' dependents;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

***(1) The Commonwealth of Kentucky shall establish a minimum of two (2) child day-care programs for the purpose of providing child day-care services for state employees' dependents.***

***(2) The child day-care programs shall be established in areas designated by the Cabinet for Human Resources in consultation with the Department of Personnel. Site preference for the child day-care programs shall be given to areas with a higher number of state employees with children six (6) years of age and younger with low salary earnings.***

***(3) The child day-care program may be located in state-owned office buildings, educational facilities and institutions, custodial facilities and institutions or in privately owned buildings located within a one quarter (1/4) mile radius of the state employee's place of employment.***

***(4) The Cabinet for Human Resources shall administer the child day-care programs. The programs shall comply with the day-care center licensing requirements pursuant to KRS 199.894 to 199.896. The cabinet***

***may contract with public or private child care providers for the provision of the program's child day-care services.***

***(5) The child day-care programs established pursuant to this Act shall be financially self-sufficient. Operating costs of the child day-care programs shall be offset by a sliding scale of fees based on income charged to employees whose dependents receive the child care services.***

***(6) The cabinet shall evaluate the child day-care programs for effectiveness in reducing employee turnover and employee absenteeism, and improving employee morale. The cabinet, based on the findings of the evaluation of the child day-care programs, shall make recommendations regarding the expansion of the program to the General Assembly no later than October, 1991.***

The Committee Substitute to **HB 542** is as follows:

**HB 542,** AN ACT relating to child day-care.

WHEREAS, more than half of all mothers with children under the age of six are currently in the workforce; and

WHEREAS, labor economists predict a skilled labor shortage in the 1990s which is likely to result in an ever-increasing reliance of businesses on the participation of women in the workforce; and

WHEREAS, today the heads of many single-parent and two-parent households must work out of economic necessity; and

WHEREAS, a University of Kentucky report found that a single parent needs to earn a salary of more than $9.00 an hour to support himself and two preschoolers if the parent needs to purchase child care; and

WHEREAS, a University of Kentucky study reported that assistance with the cost of child care for low-income working parents increases employment and enables parents to remain independent of public assistance programs; and

WHEREAS, child care has become an increasingly important issue for working parents, businesses and policy makers; and

WHEREAS, the Commonwealth of Kentucky should serve as a role model for private businesses by responding to the child care needs of their employees' dependents;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

***(1) The Commonwealth of Kentucky may establish a minimum of two (2) child day-care programs for the purpose of providing child day-care services for, but not limited to, state employees' dependents.***

***(2) The child day-care programs shall be established in areas designated by the Cabinet for Human Resources in consultation with the Department of Personnel. Site preference for the child day-care programs shall be given to areas with a higher number of state employees with children six (6) years of age and younger and with low salary earnings.***

***(3) The child day-care program may be located in state-owned office buildings, educational facilities and institutions, custodial facilities and institutions or in privately owned buildings located within close proximity to the state employee's place of employment.***

***(4) The Cabinet for Human Resources shall administer the child day-care programs. The programs shall comply with the day-care center licensing requirements pursuant to KRS 199.894 to 199.896. The cabinet may contract with public or private child care providers for the provision of the program's child day-care services.***

***(5) The child day-care programs established pursuant to this Act shall be financially self-sufficient. Operating costs of the child day-care programs shall be offset by a sliding scale of fees based on income charged to employees whose dependents receive the child care services. The cabinet shall make available job training and other technical assistance for which these programs may be eligible.***

***(6) The cabinet shall evaluate the child day-care programs established under this Act for effectiveness in reducing employee turnover and employee absenteeism, and in improving employee morale. No later than October 1, 1991, the cabinet, based on the findings of its evaluation of the child day-care programs,***

***shall make recommendations regarding the expansion of the program or any barriers to implementing this Act.***

**HB 633,** AN ACT relating to examinations of victims of sexual offenses.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 216B.400 is amended to read as follows:

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

(2) Every hospital of this state which offers emergency services shall provide that a physician is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140 ***and KRS 530.020***. The physician shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. Said examination shall include, but not be limited to:

(a) Basic emergency room treatment and evidence gathering services; and

(b) Laboratory cultures and tests, as appropriate, to test for venereal disease of the victim.

(3) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling will not include abortion counseling or referral information.

(4) Notwithstanding any other provision of law, a minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority and consent of the parents or guardians of the minor is not required for such examination.

(5) The examinations required under this section shall be paid for by the office of the Attorney General at a rate to be determined by the Attorney General by administrative regulation. The state shall reimburse the hospital its reasonable, usual, and customary charges, according to its current approved schedule for each of the services provided pursuant to subsection (2) of this section. No charge shall be made to the victim for such examinations, either by the hospital, the victim's insurance carrier, or the Commonwealth.

**HB 670,** AN ACT relating to representative payment.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***As used in this Act:***

***(1) "Cabinet" means the Cabinet for Human Resources;***

***(2) "Representative payee" means a person appointed by the Social Security Administration, Veterans Administration or other social service agency to provide financial management services to persons receiving Social Security Administration, Veterans Administration or other government benefits, who are incapable of making or executing responsible financial decisions.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) A representative payee fund shall be created for the purpose of providing grants to public or private organizations who provide representative payee services. The fund shall consist of moneys appropriated by the General Assembly. These moneys may also be supplemented by funds obtained from other sources for the fund as provided in this section.***

***(2) The fund shall be administered by the Cabinet for Human Resources.***

***(3) Application for moneys from the fund may be made to the cabinet, on forms prescribed by administrative regulation. The awarding of grants shall be based upon the availability of funds. Grants shall be given to nonprofit organizations or agencies providing representative payee services to more than ten (10) persons who are mentally impaired, homeless or at risk of being homeless or substance abusers in area development districts created pursuant to KRS 147A.050. The cabinet shall endeavor to fund an applicant where an eligible applicant exists. Health care facilities or other institutions, who serve as representative payees for persons residing therein, shall not be eligible to receive funds under this section.***

***(4) In determining the amount of each grant, the cabinet shall consider the number of persons receiving representative payee services from an applicant, the amount necessary to reimburse the applicant for all or a portion of the administrative costs incurred in providing representative payee services, and any fee charged by an applicant for the provision of representative payee services.***

***(5) The cabinet shall require applicants receiving funds pursuant to this section to be bonded, and to file an annual report with the cabinet providing an accounting of all funds expended on behalf of persons for whom representative payee services are provided. The cabinet shall promulgate administrative regulations providing for the termination of a grant if it determines a representative payee is not serving in the best interests of a client. If a grant is terminated, the cabinet shall report the termination to the agency who appointed the representative payee and recommend the appointment of a new representative payee. If financial exploitation is indicated, the termination shall also be reported to the Department for Social Services for investigation pursuant to KRS Chapter 209.***

***(6) The cabinet may provide training for persons serving as representative payees and may provide technical assistance to applicants awarded a grant.***

***(7) The cabinet may apply for any grants that may used to supplement the representative payee fund, and may accept gifts or donations to the fund.***

The Committee Amendment No. 1 to **HB 670** is as follows:

Amend printed copy of **HB 670** on page 1, line 7, by inserting after the word "***or other***" the word "***nonprofit***".

**HB 704**, AN ACT relating to family care homes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

***(1) A family care home licensed pursuant to KRS Chapter 216B may care for more than three (3) residents, not to exceed a total of six (6) residents, under the following conditions:***

***(a) The family care home operator has adequate training and experience to care for up to six (6) residents, as determined by administrative regulations promulgated by the Cabinet for Human Resources;***

***(b) At least one (1) adult is available at all times in the family care home to provide supervision of residents;***

***(c) The residents shall not have an illness, injury or disability for which constant medical or nursing care is required and shall be able to manage a majority of the activities of daily living; and***

***(d) The family care home shall comply with relevant life safety code requirements as promulgated by the state fire marshal.***

***(2) Family care homes desiring to care for more than three (3) residents shall make application to the Cabinet for Human Resources to care for up to six (6) residents. The cabinet shall cause an inspection to be made to determine compliance with the provisions of this Act before approving a family care home to care for more than three (3) residents.***

***(3) The Cabinet for Human Resources shall promulgate administrative regulations setting forth standards of care for family care homes desiring to care for more than three (3) residents, including provisions for appeal of decisions relating to applications to care for additional residents.***

**HB 709**, AN ACT relating to the Cabinet for Human Resources.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 194.510 is amended to read as follows:

In any prosecution for the violation of KRS 194.505 it shall be a defense if the person relied on the ***written*** advice of an employee or agent of the cabinet.

Section 2. KRS 205.855 is amended to read as follows:

In any prosecution for the violation of KRS 205.850 it shall be a defense if the person relied on the ***written*** advice of an employee or agent of the cabinet.

HCR 122, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the child day-care system in the Commonwealth and make recommendations related thereto.

WHEREAS, women with children under six are the fastest growing segment of the workforce; and

WHEREAS, with a predicted skilled labor shortage in the 1990s, businesses will increasingly depend on the participation of women in the workforce; and

WHEREAS, the availability of affordable, quality child care is a crucial need for many Kentucky families; and

WHEREAS, coordination of child day-care resources and services would aid in expanding the Commonwealth's ability to assist families with their child care needs;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Legislative Research Commission shall conduct a study of the Commonwealth of Kentucky's system of child day care. The study shall include a review of and make recommendations concerning the following child day-care areas:

(1) The administration and delivery of child day-care subsidy programs;

(2) The distribution and quality of child day-care services available to citizens and clients of the Commonwealth;

(3) The administrative organization of child day-care services including the inspection and licensing process of a day-care center;

(4) The availability of child day-care training and technical assistance for public and private child care providers, businesses and the general public;

(5) The role of resource and referral agencies including the availability and accessibility of the agencies throughout the Commonwealth; and

(6) The coordination of child day-care services at the state and local level for recipients of public assistance benefits.

Section 2. That the Legislative Research Commission shall consult with the Cabinet for Human Resources, private child day-care providers, early childhood educators, child care and early childhood professional organizations, child care advocacy organizations, businesses and any other relevant organizations in conducting the child day-care study.

Section 3. That the Legislative Research Commission shall review other states' child day-care administrative organization and service delivery system.

Section 4. That the Legislative Research Commission shall report the study findings and make recommendations regarding the child day-care system to the General Assembly no later than August, 1991.

Section 5. Legislative Research Commission staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

**HJR 137**, A JOINT RESOLUTION creating a task force for the study of state government organization for the protection of the public's health.

WHEREAS, the future of Kentucky's quality of life, economic growth, and the productivity and wellbeing of Kentucky citizens depend on government assurance that the optimal opportunity to be healthy is available in equal measure to all citizens of this Commonwealth; and

WHEREAS, the National Institute of Medicine report on the Future of Public Health concludes that fragmentation of health policies and programs across multiple cabinets, currently the rule prevailing in Kentucky state government, is detrimental to effective public health governance; and

WHEREAS, the report finds detriment to public health protection programs when placed organizationally with welfare programs, and cites numerous other circumstances, many of which exist in Kentucky, that detract from appropriate, effective health policymaking and conduct of programs; and

WHEREAS, a working committee of the Legislative Commission on Kentucky's Government created by **SCR 83** recommended that the General Assembly review the feasibility of creating an environmental and health protection cabinet;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission shall form a task force to study the desirability of consolidating state government public health protection programs into a Cabinet for Health and Environment.

Section 2. That the Legislative Research Commission shall appoint the chairman, who shall be a member of the Interim Joint Committee on Health and Welfare, and who shall appoint the other members as follows: two additional members of the General Assembly, including one other member of the Interim Joint Committee on Health and Welfare and one member of the Interim Joint Committee on Agriculture and Natural Resources; a representative of the Kentucky Association of Milk, Food and Environmental Sanitarians; a representative of the Kentucky Public Health Association; a representative of the Kentucky Health Department Association; a representative of the Health Services Advisory Council; a representative of the Kentucky Medical Association; a representative of the Kentucky Conservation Committees; and two members from the state at large with expertise in public health protection policy and programs.

Section 3. The task force shall compare the status of all publicly supported public health protection related programs, policies, agencies and activities in Kentucky to applicable findings and recommendations of the Report on the Future of Public Health, to hold hearings and take testimony from persons with an interest in these matters, and to document all findings. The task force shall report findings and recommendations relative to formation of a new Cabinet for Health and Environment, and the desirability of establishing a State Board of Health, to the Interim Joint Committee on Health and Welfare by August 15, 1991 and to the Legislative Research Commission by September 30, 1991.

Section 4. That staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

**HCR 139**, A CONCURRENT RESOLUTION urging the inclusion of a pilot percentage of income plan in Jefferson County in the 1990-91 and the 1991-92 state energy assistance plans.

WHEREAS, low income households in Jefferson County have experienced increasing difficulty in paying their energy bills, causing extreme hardship for thousands of households; and

WHEREAS, available federal Low Income Home Energy Assistance Program (LIHEAP) block grant funds have decreased 34% since 1985, and despite a concentrated effort, local, private and government sources have been unable to fill the gap; and

WHEREAS, a more efficient delivery system for energy assistance needs to be developed in order to have a greater impact with both existing and future assistance dollars; and

WHEREAS, representatives of the City of Louisville, Jefferson County, Louisville Gas & Electric Company and community groups, including representatives of low income customers, have come together to develop a plan to accomplish more effective delivery of energy assistance; and

WHEREAS, central to the success of this plan is the pooling of available funds to be used in a centralized program that targets the neediest households with the highest energy costs, a percentage of income plan; and

WHEREAS, such pooled funding also must include federal LIHEAP funds administered by the Cabinet for Human Resources; and

WHEREAS, LIHEAP funds are spent according to a plan submitted by the state to the federal government each year;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

That the General Assembly endorses the efforts of Jefferson County and the City of Louisville to develop a pilot program to more effectively meet the energy needs of low income households, and urges the Cabinet for Human Resources to work with officials of the City of Louisville and Jefferson County develop a pilot percentage of income plan to be included in the state plan submitted with the LIHEAP application for the 1990-91 and 1991-92 energy assistance programs.

**HCR 146**, A CONCURRENT RESOLUTION directing a study of the need for a Department for Family and Children's Services.

WHEREAS, since, 1981 the number of children reported as abused or neglected in Kentucky has increased over seventy percent (70%), the number of children reported to be sexually abused has increased by two hundred and fifty percent (250%); and

WHEREAS, the Commonwealth of Kentucky has a responsibility to provide timely, coordinated, efficient and effective services to children and their families which are designed to strengthen and encourage family life for the protection and care of children, provide children a safe and nurturing environment, ensure children are not removed from their homes unless absolutely necessary, serve children in the least restrictive environment, and provide treatment reasonably calculated to bring about an improvement in the condition of children and their families; and

WHEREAS, the Department for Social Services, the Department for Mental Health and Mental Retardation Services, the regional community mental health center system, the juvenile justice system, and the Department of Education too often provide services to children and families with no formal coordination of efforts, fragmentation and duplication of services, and a lack of overall responsibility to ensure that the needs of families and children are met; and

WHEREAS, with the multiple funding sources for children and families served by state agencies and the distribution of those funds within state government has made it difficult for the General Assembly to oversee the fiscal accountability and efficiency of the many agencies involved;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Legislative Research Commission is directed to appoint a Task Force, the purpose of which is to examine, during the 1990-91 interim, the need for a Department for Family and Children's Services within the Cabinet for Human Resources.

Section 2. That the Task Force shall consist of ten (10) members: two (2) members of the House of Representatives; two (2) members of the Senate; one (1) member from the University of Louisville School of Social Work; one (1) member of the University of Kentucky School of Social Work; the director of the Division of Family Services of the State Department for Social Services; the President of the District Court Judges Associaton or the President's designee, one (1) member of the Kentucky Association of Homes for Children; and one (1) representative of a regional community mental health and mental retardation services program.

Section 3. That the findings and conclusions of the Task Force, including legislation it may recommend or prefile, shall be reported to the Interim Joint Committee on Health and Welfare on or before August 1, 1991, and to the Legislative Research Commission on or before September 1, 1991.

Section 4. The staff services in support of the Task Force are estimated to be $20,000. These staff services shall be provided from the regular Commission budget and a are subject to the limitations and other research responsibilities of the Commission.

The Committee on Health and Welfare reported **HB 122** with Committee Substitute attached thereto, and **HB 657** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 122,** AN ACT relating to alcohol and other drug abuse.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***In this chapter the following words shall, unless the context requires otherwise, have the following meanings:***

***(1) "Administrator" means the person in charge of the operation of an alcohol and other drug abuse prevention, intervention or treatment program, or his designee.***

***(2) "Agency" means a legal entity operating hospital or non-hospital alcohol and other drug abuse prevention, intervention and treatment programs.***

***(3) "Cabinet" means the Cabinet for Human Resources.***

***(4) "Director" means the director of the division of substance abuse.***

*(5) "Hospital" means an establishment with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.*

*(6) "Intoxication" means being under the influence of alcohol or other drugs or both, which significantly impairs a person's ability to function.*

*(7) "Juvenile" means any person who is under the age of eighteen (18).*

*(8) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900.*

*(9) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program.*

*(10) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening or treating alcohol and other drug abuse problems.*

*(11) "Secretary" means the secretary of the Cabinet for Human Resources.*

*(12) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:*

*(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;*

*(b) Use in situations which are potentially physically hazardous;*

*(c) Loss of control over the use of alcohol or other drugs or both;*

*(d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both.*

*(13) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and alcohol and other drug abusers.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The Cabinet for Human Resources is further designated to carry out the planning activities of the Commonwealth in the field of alcohol and other drug abuse and to provide assistance to the activities of other state agencies in combating the problems of alcohol and other drug abuse as they may affect those state agency programs or persons under their respective charge and care.*

*(2) To implement the coordination of state agencies' alcohol and other drug abuse programs there is hereby established an Interagency Council on Alcohol and Other Drug Abuse which shall be composed of, but not restricted to, a representative from each of the following departments: the Governor's office; Attorney General's office; Department of Education; Administrative Office of the Courts; Department of Personnel; Cabinet for Human Resources; Cabinet for Economic Development; Corrections Cabinet; Labor Cabinet; Justice Cabinet; Transportation Cabinet; Council on Higher Education; Kentucky Department of State Police; Department for Alcoholic Beverage Control; Department of Military Affairs; Commission on Women; and Kentucky Educational Television.*

*(3) The director of the Division of Substance Abuse shall serve as the coordinator of the interagency council.*

*(4) An annual comprehensive state plan for alcohol and other drug abuse, prevention, intervention and treatment shall be developed by the interagency council from recommendations and evaluations from various agencies of state government. Upon approval of the plan by the Governor, each state agency shall expend its resources pursuant to the state plan.*

*(5) The provisions of this section shall be in addition to any present statutory responsibility given to state departments and not withstanding any other provision to the contrary.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*The cabinet shall coordinate matters affecting alcohol and other drug abuse in the Commonwealth, and shall assure that there is the provision of prevention, intervention and treatment services for both juveniles and adults to address the problems of alcohol and other drug abuse within individuals, families and* *communities; that the coordination of such matters shall be done in cooperation with public and private agencies, business and industry; and that technical assistance, training and consultation services shall be provided within budgetary limitations whenever required. The cabinet may adopt rules and regulations to carry out its powers and duties under this chapter. The cabinet shall be responsible for assuring that the following services are available and shall utilize community mental health centers and existing facilities and services available within the private sector whenever possible:*

*(1) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of alcohol and other drug abuse related problems and enhancing the general level of health. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or non-use of alcohol and other drugs as well as to influence environmental factors such as social policies and norms which will support healthy lifestyle;*

*(2) Intervention services for the purpose of identifying, motivating and referring individuals in need of alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health and social service agencies;*

*(3) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;*

*(4) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;*

*(5) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on an outpatient basis;*

*(6) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders.*

*(7) Training programs for personnel working in the field of prevention, intervention and treatment of alcohol and other drug abuse problems; and*

*(8) Assessment of the person's impairment due to their alcohol or drug use, as well as education and treatment services for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may:*

*(a) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter including, but not limited to, contracts with government departments, public and private agencies and facilities, physicians and other persons rendering services to alcohol and other drug abusers. All rates shall be established in accordance with regulations promulgated by the cabinet. Income and resources of alcohol and other drug abusers to pay for services shall be taken into consideration to the fullest extent possible and the cabinet shall be subrogated to any public or private third-party payments which may be due;*

*(b) Establish and operate facilities if adequate public and private resources are not available;*

*(c) Solicit and accept for use in relation to the purposes of this chapter any gift or bequest of money or property and any grant or loans of money, services, or property from the federal government, the Commonwealth or any political subdivision thereof. Any money received under this paragraph shall be deposited with the state treasurer to be kept in a separate fund in the treasury for expenditure by the cabinet in accordance with the conditions of the gift, bequest, loan or grant without specific appropriations; and*

*(d) The cabinet may establish regulations for the admission of patients to its facilities and may set fees for treatment. Except as otherwise provided by law, all provisions of KRS Chapter 210 relating to charges and collection for treatment of the mentally ill shall apply to fees and collection of fees for treatment of alcohol and other drug abusers.*

*(2) The cabinet shall prepare and publish annually a directory of all alcohol and other drug abuse facilities and services available in the Commonwealth. This directory shall be made available upon request.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a license, subject to revocation by it for cause, to any persons, other than an alcohol and other drug abuse program that has been issued a license by the cabinet entitled Chemical Dependency Treatment Services pursuant to KRS 216B.040(3) or a department, agency, or institution of the federal government, deemed by it to be responsible and suitable to establish and maintain a program and to meet applicable licensure standards and requirements.*

*(2) The cabinet shall promulgate regulations establishing requirements and standards for licensing and approval of programs. The requirements and standards shall include, but shall not be limited to:*

*(a) The health standards to be met by a facility housing a program;*

*(b) Patient care standards and minimum operating, training and maintenance of patient records standards;*

*(c) Licensing fees, application, renewal and revocation procedures, and the procedures for evaluation of the alcohol and other drug abuse programs; and*

*(d) Classification of alcohol and other drug abuse programs according to type, range of services and level of care provided.*

*(3) The cabinet may establish different requirements and standards for different kinds of programs, and may impose stricter requirements and standards in contracts with agencies made pursuant to Section 4 of this Act.*

*(4) Each program shall be individually licensed or approved.*

*(5) Each agency shall file with the cabinet from time to time, the data, statistics, schedules or information the cabinet may reasonably require for the purposes of this section.*

*(6) The cabinet, after holding a hearing conducted by a hearing officer appointed by the secretary, may refuse to grant, suspend, revoke, limit or restrict the applicability of or refuse to renew any license or approval for any failure to meet the requirements of its rules and regulations or standards concerning such programs. Appeal shall be to the Franklin Circuit Court.*

*(7) No person, excepting an alcohol and other drug abuse program that has been issued a license by the cabinet entitled Chemical Dependency Treatment Services pursuant to KRS 216B.040(3) or a department, agency or institution of the federal government, shall operate a program without such a license.*

*(8) Each program shall be subject to visitation and inspection by the cabinet and the cabinet shall inspect each program prior to granting or renewing a license or approval. The cabinet may examine the books and accounts of any program if it deems the examination necessary for the purposes of this section.*

*(9) The director may require agencies which contract with the Commonwealth pursuant to Section 4 of this Act to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter.*

*(10) The cabinet shall promulgate regulations governing the extent to which programs may be required to treat any person as an inpatient or outpatient pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person suffering from acute alcohol or other drug intoxication or severe withdrawal syndrome from emergency medical care.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The administrator of each program shall keep a record of the treatment afforded each alcohol and other drug abuse patient, which shall be confidential in accordance with regulations promulgated by the cabinet.*

*(2) Any patient shall have the right to have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone and telegraph. The communications shall not be censored or read without consent of the patient. The foregoing shall not limit the right of the administrator, subject to reasonable rules and regulations of the cabinet, to prescribe reasonable rules governing visitation rights, use of the mail and telephone and telegraph facilities.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The programs or activities of the voluntary self-help organizations known as alcoholics anonymous, narcotics anonymous, al-anon and similar organizations in the area of alcohol and other drug abuse rehabilitation shall not be restricted or regulated by the provisions of this chapter.*

*(2) The programs or activities of voluntary community groups and agencies, such as Students Against Drunk Driving, National Federation of Parents, Parent Resource Institute for Drug Education and similar organizations in the area of alcohol and other drug abuse prevention shall not be restricted or regulated by the provisions of this chapter.*

*(3) Nothing contained in this Act shall affect any laws, ordinances, resolutions or regulations against driving under the influence of alcohol or other drugs, or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) No hospital shall refuse to admit and treat the medical needs of alcohol and other drug abusers; nor shall any hospital discriminate against such persons solely because of their alcohol and other drug abuse.*

*(2) Any intoxicated person admitted to a licensed alcohol and other drug abuse program or a licensed hospital shall receive treatment at the program or hospital for as long as the person wishes to remain or until the administrator determines that treatment will no longer benefit the person. Any person, who is intoxicated at the time of admission shall remain at the facility until he is no longer intoxicated, but the person shall not be required to remain for a period greater than seventy-two (72) hours.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) Any person may request treatment from a physician, or alcohol and other drug abuse program licensed or approved by the Cabinet for Human Resources to provide alcohol and other drug abuse treatment services.*

*(2) Every alcohol and other drug abuse program that provides intervention or treatment services or both to a person with an alcohol and other drug abuse problem shall upon request of the Cabinet for Human Resources make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided treatment services during a specified period of time. The name or address of any person to whom intervention or treatment services or both were provided shall not be reported. The secretary of the Cabinet for Human Resources shall provide compilations of the statistical information to other appropriate agencies upon request.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) Notwithstanding any other law, a minor who suffers from an alcohol and other drug abuse problem or emotional disturbance from the effects of a family member or legal guardian's alcohol and other drug abuse problem or the parent or guardian of the minor may give consent to the furnishing of medical care or counseling related to the assessment or treatment of the conditions. The consent of the minor shall be valid as if the minor had achieved majority. No person or facility shall incur liability by reason of having made a diagnostic examination or rendered treatment as provided in this section, but the immunity shall not apply to any negligent acts or omissions.*

*(2) A minor hospitalized or treated without his consent but with the consent of his parent or guardian may petition the District Court to determine whether the minor is suffering from alcohol or drug abuse or addiction and whether the treatment is necessary for the health and welfare of the minor.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*Notwithstanding the provisions of KRS 13A.345, all administrative regulations heretofore adopted by the Cabinet for Human Resources relating to the licensing of alcohol and drug abuse prevention, education and treatment programs and on file with the Legislative Research Commission on the effective date of this Act shall remain in full force and effect unless subsequently amended or repealed by the cabinet.*

Section 12. KRS 210.990 is amended to read as follows:

(1) Any officer who violates KRS 210.110 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) and his office or appointment shall without further action be vacant.

(2) Any person who wilfully violates KRS 210.130 or 210.220 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

[~~(3) Any person establishing, conducting, managing or operating any DATE center without proper permit under KRS 210.610 to 210.680 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25) for the first offense, and not more than one hundred dollars ($100) for each subsequent offense. Each day of continuing violation shall be considered a separate offense.~~]

Section 13. KRS 222.280 is amended to read as follows:

The secretary of health, education and welfare of the United States shall be afforded reasonable access to any reports, records, or the like, kept by the Cabinet for Human Resources pursuant to and in accordance with the provisions of ***Sections 1 to 11 of this Act*** [~~KRS 222.210 to 222.300~~]. The comptroller general of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the same aforesaid reports, records or the like.

SECTION 14. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***This Act shall be known and may be cited as the Alcohol and Other Drug Abuse Prevention, Intervention and Treatment Law.***

Section 15. The following KRS sections are repealed:

210.610 Definitions for KRS 210.620 to 210.680.

210.620 Issuance of permits for operation of DATE centers — Evaluation — Fees.

210.630 Permit required for operation of DATE center.

210.640 DATE center permit — Denial or revocation.

210.650 Revocation of permit — Reinstatement.

210.660 Inspection.

210.670 Confidential information.

210.680 State or federal agencies issued permit automatically.

222.011 Definitions.

222.031 Planning and coordination of programs on alcoholism and drug abuse — Interagency councils.

222.210 Cabinet's functions as to alcoholism.

222.220 Administrative powers of cabinet — Annual list of facilities and services.

222.230 Licensing of treatment facilities.

222.240 Admission to treatment facility.

222.250 Supervision of person receiving treatment.

222.260 Provisions as to juvenile patients.

222.270 Confidential record of treatment — Patient's rights.

222.290 Areas not affected by treatment and rehabilitation law.

222.300 Citation of KRS 222.210 to 222.300.

222.310 Hospitals required to treat alcoholism.

222.410 Cabinet to study drug problems — Administrative powers — Providing treatment — Fees.

222.420 Treatment for drug problem on request — Statistical reports.

222.430 Involuntary hospitalization for drug problem — Rights of patient.

222.440 Capacity of juvenile to consent to treatment.

The Committee Substitute to HB 122 is as follows:

HB 122, AN ACT relating to alcohol and other drug abuse.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***In this chapter the following words shall, unless the context requires otherwise, have the following meanings:***

*(1) "Administrator" means the person in charge of the operation of an alcohol and other drug abuse prevention, intervention or treatment program, or his designee.*

*(2) "Agency" means a legal entity operating hospital or non-hospital alcohol and other drug abuse prevention, intervention and treatment programs.*

*(3) "Cabinet" means the Cabinet for Human Resources.*

*(4) "Director" means the director of the division of substance abuse.*

*(5) "Hospital" means an establishment with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.*

*(6) "Intoxication" means being under the influence of alcohol or other drugs or both, which significantly impairs a person's ability to function.*

*(7) "Juvenile" means any person who is under the age of eighteen (18).*

*(8) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900.*

*(9) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program.*

*(10) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening or treating alcohol and other drug abuse problems.*

*(11) "Secretary" means the secretary of the Cabinet for Human Resources.*

*(12) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:*

*(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;*

*(b) Use in situations which are potentially physically hazardous;*

*(c) Loss of control over the use of alcohol or other drugs or both;*

*(d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both.*

*(13) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and alcohol and other drug abusers.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*The cabinet shall coordinate matters affecting alcohol and other drug abuse in the Commonwealth, and shall assure that there is the provision of prevention, intervention and treatment services for both juveniles and adults to address the problems of alcohol and other drug abuse within individuals, families and communities; that the coordination of such matters shall be done in cooperation with public and private agencies, business and industry; and that technical assistance, training and consultation services shall be provided within budgetary limitations whenever required. The cabinet may adopt rules and regulations to carry out its powers and duties under this chapter. The cabinet shall be responsible for assuring that the following services are available and shall utilize community mental health centers and existing facilities and services available within the private sector whenever possible:*

*(1) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of alcohol and other drug abuse related problems and enhancing the general level of health. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or non-use of alcohol and other drugs as well as to influence environmental factors such as social policies and norms which will support healthy lifestyle;*

*(2) Intervention services for the purpose of identifying, motivating and referring individuals in need of alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health and social service agencies;*

*(3) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;*

*(4) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;*

*(5) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on an outpatient basis;*

*(6) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders.*

*(7) Training programs for personnel working in the field of prevention, intervention and treatment of alcohol and other drug abuse problems; and*

*(8) Assessment of the person's impairment due to their alcohol or drug use, as well as education and treatment services for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may:*

*(a) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter including, but not limited to, contracts with government departments, public and private agencies and facilities, physicians and other persons rendering services to alcohol and other drug abusers. All rates shall be established in accordance with regulations promulgated by the cabinet. Income and resources of alcohol and other drug abusers to pay for services shall be taken into consideration to the fullest extent possible and the cabinet shall be subrogated to any public or private third-party payments which may be due;*

*(b) Establish and operate facilities if adequate public and private resources are not available;*

*(c) Solicit and accept for use in relation to the purposes of this chapter any gift or bequest of money or property and any grant or loans of money, services, or property from the federal government, the Commonwealth or any political subdivision thereof. Any money received under this paragraph shall be deposited with the state treasurer to be kept in a separate fund in the treasury for expenditure by the cabinet in accordance with the conditions of the gift, bequest, loan or grant without specific appropriations; and*

*(d) The cabinet may establish regulations for the admission of patients to its facilities and may set fees for treatment. Except as otherwise provided by law, all provisions of KRS Chapter 210 relating to charges and collection for treatment of the mentally ill shall apply to fees and collection of fees for treatment of alcohol and other drug abusers.*

*(2) The cabinet shall prepare and publish annually a directory of all alcohol and other drug abuse facilities and services available in the Commonwealth. This directory shall be made available upon request.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a license, subject to revocation by it for cause, to any persons, other than an alcohol and other drug abuse program that has been issued a license by the cabinet entitled Chemical Dependency Treatment Services pursuant to KRS 216B.040(3) or a department, agency, or institution of the federal government, deemed by it to be responsible and suitable to establish and maintain a program and to meet applicable licensure standards and requirements.*

*(2) The cabinet shall promulgate regulations establishing requirements and standards for licensing and approval of programs. The requirements and standards shall include, but shall not be limited to:*

*(a) The health standards to be met by a facility housing a program;*

*(b) Patient care standards and minimum operating, training and maintenance of patient records standards;*

*(c) Licensing fees, application, renewal and revocation procedures, and the procedures for evaluation of the alcohol and other drug abuse programs; and*

*(d) Classification of alcohol and other drug abuse programs according to type, range of services and level of care provided.*

*(3) The cabinet may establish different requirements and standards for different kinds of programs, and may impose stricter requirements and standards in contracts with agencies made pursuant to Section 3 of this Act.*

*(4) Each program shall be individually licensed or approved.*

*(5) Each agency shall file with the cabinet from time to time, the data, statistics, schedules or information the cabinet may reasonably require for the purposes of this section.*

*(6) The cabinet, after holding a hearing conducted by a hearing officer appointed by the secretary, may refuse to grant, suspend, revoke, limit or restrict the applicability of or refuse to renew any license or approval for any failure to meet the requirements of its rules and regulations or standards concerning such programs. Appeal shall be to the Franklin Circuit Court.*

*(7) No person, excepting an alcohol and other drug abuse program that has been issued a license by the cabinet entitled Chemical Dependency Treatment Services pursuant to KRS 216B.040(3) or a department, agency or institution of the federal government, shall operate a program without such a license.*

*(8) Each program shall be subject to visitation and inspection by the cabinet and the cabinet shall inspect each program prior to granting or renewing a license or approval. The cabinet may examine the books and accounts of any program if it deems the examination necessary for the purposes of this section.*

*(9) The director may require agencies which contract with the Commonwealth pursuant to Section 3 of this Act to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter.*

*(10) The cabinet shall promulgate regulations governing the extent to which programs may be required to treat any person as an inpatient or outpatient pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person suffering from acute alcohol or other drug intoxication or severe withdrawal syndrome from emergency medical care.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The administrator of each program shall keep a record of the treatment afforded each alcohol and other drug abuse patient, which shall be confidential in accordance with regulations promulgated by the cabinet.*

*(2) Any patient shall have the right to have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone and telegraph. The communications shall not be censored or read without consent of the patient. The foregoing shall not limit the right of the administrator, subject to reasonable rules and regulations of the cabinet, to prescribe reasonable rules governing visitation rights, use of the mail and telephone and telegraph facilities.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) The programs or activities of the voluntary self-help organizations known as alcoholics anonymous, narcotics anonymous, al-anon and similar organizations in the area of alcohol and other drug abuse rehabilitation shall not be restricted or regulated by the provisions of this chapter.*

*(2) The programs or activities of voluntary community groups and agencies, such as Students Against Drunk Driving, National Federation of Parents, Parent Resource Institute for Drug Education and similar organizations in the area of alcohol and other drug abuse prevention shall not be restricted or regulated by the provisions of this chapter.*

*(3) Nothing contained in this Act shall affect any laws, ordinances, resolutions or regulations against driving under the influence of alcohol or other drugs, or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

*(1) No hospital shall refuse to admit and treat the medical needs of alcohol and other drug abusers; nor shall any hospital discriminate against such persons solely because of their alcohol and other drug abuse.*

*(2) Any intoxicated person admitted to a licensed alcohol and other drug abuse program or a licensed hospital shall receive treatment at the program or hospital for as long as the person wishes to remain or until the administrator determines that treatment will no longer benefit the person. Any person, who is*

***intoxicated at the time of admission shall remain at the facility until he is no longer intoxicated, but the person shall not be required to remain for a period greater than seventy-two (72) hours.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***(1) Any person may request treatment from a physician, or alcohol and other drug abuse program licensed or approved by the Cabinet for Human Resources to provide alcohol and other drug abuse treatment services.***

***(2) Every alcohol and other drug abuse program that provides intervention or treatment services or both to a person with an alcohol and other drug abuse problem shall upon request of the Cabinet for Human Resources make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided treatment services during a specified period of time. The name or address of any person to whom intervention or treatment services or both were provided shall not be reported. The secretary of the Cabinet for Human Resources shall provide compilations of the statistical information to other appropriate agencies upon request.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any other law, a minor who suffers from an alcohol and other drug abuse problem or emotional disturbance from the effects of a family member or legal guardian's alcohol and other drug abuse problem or the parent or guardian of the minor may give consent to the furnishing of medical care or counseling related to the assessment or treatment of the conditions. The consent of the minor shall be valid as if the minor had achieved majority. No person or facility shall incur liability by reason of having made a diagnostic examination or rendered treatment as provided in this section, but the immunity shall not apply to any negligent acts or omissions.***

***(2) A minor hospitalized or treated without his consent but with the consent of his parent or guardian may petition the District Court to determine whether the minor is suffering from alcohol or drug abuse or addiction and whether the treatment is necessary for the health and welfare of the minor.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding the provisions of KRS 13A.345, all administrative regulations heretofore adopted by the Cabinet for Human Resources relating to the licensing of alcohol and drug abuse prevention, education and treatment programs and on file with the Legislative Research Commission on the effective date of this Act shall remain in full force and effect unless subsequently amended or repealed by the cabinet.***

Section 11. KRS 210.990 is amended to read as follows:

(1) Any officer who violates KRS 210.110 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) and his office or appointment shall without further action be vacant.

(2) Any person who wilfully violates KRS 210.130 or 210.220 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

[~~(3) Any person establishing, conducting, managing or operating any DATE center without proper permit under KRS 210.610 to 210.680 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25) for the first offense, and not more than one hundred dollars ($100) for each subsequent offense. Each day of continuing violation shall be considered a separate offense.~~]

Section 12. KRS 222.280 is amended to read as follows:

The Secretary of Health ***and Human Services***[~~, education and welfare~~] of the United States shall be afforded reasonable access to any reports, records, or the like, kept by the Cabinet for Human Resources pursuant to and in accordance with the provisions of ***Sections 1 to 10 of this Act*** [~~KRS 222.210 to 222.300~~]. The comptroller general of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the same aforesaid reports, records or the like.

SECTION 13. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***This Act shall be known and may be cited as the Alcohol and Other Drug Abuse Prevention, Intervention and Treatment Law.***

Section 14. The following KRS sections are repealed:

210.610 Definitions for KRS 210.620 to 210.680.

210.620 Issuance of permits for operation of DATE centers — Evaluation — Fees.

210.630 Permit required for operation of DATE center.

210.640 DATE center permit — Denial or revocation.

210.650 Revocation of permit — Reinstatement.

210.660 Inspection.

210.670 Confidential information.

210.680 State or federal agencies issued permit automatically.

222.011 Definitions.

222.031 Planning and coordination of programs on alcoholism and drug abuse — Interagency councils.

222.210 Cabinet's functions as to alcoholism.

222.220 Administrative powers of cabinet — Annual list of facilities and services.

222.230 Licensing of treatment facilities.

222.240 Admission to treatment facility.

222.250 Supervision of person receiving treatment.

222.260 Provisions as to juvenile patients.

222.270 Confidential record of treatment — Patient's rights.

222.290 Areas not affected by treatment and rehabilitation law.

222.300 Citation of KRS 222.210 to 222.300.

222.310 Hospitals required to treat alcoholism.

222.410 Cabinet to study drug problems — Administrative powers — Providing treatment — Fees.

222.420 Treatment for drug problem on request — Statistical reports.

222.430 Involuntary hospitalization for drug problem — Rights of patient.

222.440 Capacity of juvenile to consent to treatment.

**HB 657**, AN ACT relating to medical review organizations.

WHEREAS, the protection afforded to peer review participants for review functions relating to acts occurring from July 15, 1980, has been eliminated by the Supreme Court's decision in ***Sweasy v. King's Daughters Memorial Hosp.***, Ky., 771 SW 2d 812 (1989), and the lack of such protection inhibits open and candid peer review; and

WHEREAS, there is an urgent need to promote effective peer review for the protection and welfare of the public;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS 311.377 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of such application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employe of or who furnishes information, professional counsel or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, licensed hospice, licensed home health agency, health insurer, health maintenance organization, health services corporation, organized medical staff, medical society, or association affiliated with the American Medical Association, American Podiatry Association, American Dental Association, American Osteopathic Association or the American Hospital Association, or a medical care foundation affiliated with such a medical society or association, or governmental or quasi-governmental agency when such entity is performing the designated function of review of credentials or***

***review and evaluation of the competency of professional acts or conduct of other health care personnel. This subsection shall have equal application to, and the waiver be effective for, those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any such health services organization.***

***(2) At all times in performing a designated professional review function, the proceedings, records, opinions, conclusions and recommendations of any committee, board, commission, medical staff, professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action in any court or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city, except as specifically provided with regard to the board in KRS 311.605(2). This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.***

***(3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document or record which is subject to discovery independently of the proceedings of the entity to which subsection (1) of this section refers.***

***(4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any entity before which such evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document or record described in subsection (3) of this section or as to any information within his own knowledge except as provided in subsection (5) of this section.***

***(5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of such proceeding.***

***(6) In any action in which the denial, termination or restriction of staff membership or privileges by any health care facility shall be in issue, agents, employees or other representatives of a health care entity may with the consent of such health care entity testify concerning any evidence presented in proceedings related to the facility's denial of such staff membership or privileges.***

***(7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of such entity.***

***(8) In addition to the foregoing, the immunity provisions of the federal Health Care Quality Improvement Act of 1986, P.L. 99-660, shall be effective arising under state laws as of July 15, 1988.***

Section 2. This Act shall be retroactive to July 15, 1980.

The Committee on Business Organizations and Professions reported **HB 536** with Committee Substitute and Title Amendment attached thereto, and **HB 732** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 536**, AN ACT relating to racing and intertrack wagering dates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and Appaloosa racing at a thoroughbred race meeting within the Commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by ***regulation*** [~~rule~~] require.

(2) ***The House and Senate Business Organizations and Professions Committees when the Kentucky General Assembly is in session and the Interim Joint Committee on Business Organizations and Professions of the Legislative Research Commission at other times, shall have exclusive authority to award racing and intertrack wagering dates in the Commonwealth of Kentucky. The commission shall submit to the appropriate committee or committees dates requested by the tracks no later than January 1 of each year.*** The ***committee*** [~~commission~~] shall as soon as practicable, but in no event later than March 1 in any calendar year award dates for racing ***and intertrack wagering*** in the Commonwealth during the year. In the event scheduled racing

is canceled by reason of flood, fire, or inclement weather, the ***committee*** [~~commission~~] may award after March 1 additional racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue ***a*** [~~such~~] license to conduct a thoroughbred race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the ***administrative regulations*** [~~rules~~] and rulings of the commission, the licensing of ***the*** [~~such~~] association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of ***a*** [~~such~~] license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.215 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track which is granted overlapping dates with another thoroughbred or harness racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or Appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of ***the*** [~~such~~] track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and Appaloosa racing at a thoroughbred race meeting on any day of the year. Thoroughbred racing or Appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with thoroughbred racing or Appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or Appaloosa race not licensed by this section or KRS 230.620 to 230.760 is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 2. KRS 230.690 is amended to read as follows:

(1) Any person desiring to conduct standardbred, quarter horse, Appaloosa or Arabian horse racing within the Commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by ***regulation*** [~~rule~~], require.

(2) ***The House and Senate Business Organizatins and Professions Committees when the Kentucky General Assembly is in session and the Interim Joint Committee on Business Organizations and Professions of the Legislative Research Commission at other times, shall have exclusive authority to award racing and intertrack wagering dates in the Commonwealth of Kentucky. The commission shall submit to the appropriate committee or committees, dates requested by the tracks no later than January 1 of each year.*** The ***committee*** [~~commission~~] shall as soon as practicable, but in no event later than February 1 in any calendar year award dates for racing ***and intertrack wagering*** in the Commonwealth during the year. In the event scheduled racing is cancelled by reason of flood, fire, inclement weather, or other causes the ***committee*** [~~commission~~] may award after February 1 additional racing dates to make up for those dates cancelled by such flood, fire, inclement weather, or other causes. The commission may issue ***a*** [~~such~~] license to conduct a standardbred, quarter horse, Appaloosa or Arabian horse race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health,

safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the ***administrative regulations*** [~~rules~~] and rulings of the commission, the licensing of ***the*** [~~such~~] association would serve to nurture, promote, develop, or improve the standardbred, quarter horse, Appaloosa and Arabian industry in the Commonwealth. As a condition precedent to the issuance of ***a*** [~~such~~] license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including, but not limited to, purses and awards to owners of horses participating in races.

(3) Every license issued under this section shall specify among other things the name of the person to whom issued, the address and location of the track where the race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a standardbred, quarter horse, Appaloosa or Arabian horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for horse racing because of flood, fire or other catastrophe or other causes, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of ***the*** [~~such~~] track willingly consents to the use thereof.

(5) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with standardbred, quarter horse, Appaloosa or Arabian horse racing or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(6) The fee for a license issued under this section shall be in such amount as prescribed by the commission.

(7) Every standardbred, quarter horse, Appaloosa or Arabian horse race not licensed under this section is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

The Committee Substitute to **HB 536** is as follows:

**HB 536,** AN ACT relating to racing and intertrack wagering dates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly including the employees of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the office of the secretary of the Governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g) and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45.700 to 45.720;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer***; and***

***(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission.***

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing herein shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 2. KRS 138.510 is amended to read as follows:

(1) Through June 30, 1990, an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky State Racing Commission at which betting is

conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until June 30, 1990, tracks with a daily average handle of less than one million two hundred thousand dollars ($1,200,000) shall receive a tax credit amounting to three percent (3%) of money wagered, with one and one-half percent (1.5%) to be allocated to purses, one percent (1%) to capital improvement and one-half percent (.5%) for administration. From July 15, 1986 until June 30, 1990, tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or more shall receive a tax credit amounting to one percent (1%) of money wagered, to be allocated to purses. All money from the tax credit allocated to purses shall be in addition to purse money allocated by contractual agreement or by regulation of the commission. All expenditures of tax credit money shall be reported to and approved by the commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. An amount equal to three-quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. [~~From July 13, 1984, until September 15, 1988, any track with a daily average handle of less than one million two hundred thousand dollars ($1,200,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated in the same manner as the tax credit is allocated.~~]

(2) Through June 30, 1990 an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky Harness Racing Commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering on racing under the jurisdiction of the Kentucky Harness Racing Commission shall be deducted from the tax and set aside by the Revenue Cabinet and shall be deposited in the Kentucky standardbred, quarter horse, appaloosa and arabian development fund created and described in KRS 230.770. From July 15, 1982, until June 30, 1990, associations conducting a race meet under the jurisdiction of the Kentucky Harness Racing Commission with a daily average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of three percent (3%) of all money wagered, two percent (2%) to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect and three-quarters of one percent (3/4 of 1%) to be allocated to overnight purses and one-quarter of one percent (1/4 of 1%) to be allocated to the Kentucky standardbred, quarter horse, appaloosa and arabian development fund. Said expenditures shall be reported to and approved by the Harness Racing Commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the Legislative Research Commission. [~~From July 13, 1986, until September 15, 1988, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred, quarter horse, appaloosa and arabian development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.~~]

(3) Effective July 1, 1990, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission. For tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3 1/2%) of all money wagered during the fiscal year. For tracks with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1 1/2%) of all money wagered during the fiscal year. For the purposes of this subsection and subsections (1) and (2) of this section, the daily average handle shall be computed from the amount wagered only at the host track and shall not include money wagered at a receiving track*, **at the intertrack facility, or on telephone account wagering***. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the same amount and same manner as provided for in subsections (1) and (2) of this section*, **termination dates in these sections notwithstanding***.

(4) An excise tax is imposed on ***telephone account wagering, the intertrack facility and*** all tracks not conducting pari-mutuel racing but participating as receiving tracks in intertrack wagering under the jurisdictions of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission. From July 15, 1988 until June 30, 1990, the tax shall be in the amount of five percent (5%) of all money wagered during the fiscal year. After June 30, 1990, the tax shall be in the amount of three percent (3%) of all money wagered ***by such methods*** during the fiscal year. After June 30, 1990 an amount equal to two percent (2%) of the amount wagered and deducted from the tax imposed in this subsection shall be deposited in the

thoroughbred development fund if the ***host*** [~~receiving~~] track is under the jurisdiction of the Kentucky State Racing Commission, or the Kentucky standardbred, quarter horse, appaloosa and arabian development fund, if the ***host*** [~~receiving~~] track is under the jurisdiction of the Kentucky Harness Racing Commission.

(5) Two-tenths of one percent (.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2) and (3) of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

Section 3. KRS 138.515 is amended to read as follows:

(1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a race track under the jurisdiction of the Kentucky State Racing Commission at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, shall not be less than fifteen percent (15%) nor more than sixteen percent (16%) at the discretion of those tracks averaging over ***one million two*** [~~nine~~] hundred thousand dollars ***($1,200,000)*** [~~($900,000)~~] in ***on-track*** pari-mutuel handle per [~~racing~~] day ***of live racing conducted by the association***. The commission at those tracks averaging ***one million two*** [~~nine~~] hundred thousand dollars ***($1,200,000)*** [~~($900,000)~~] or less in ***on-track*** pari-mutuel handle per [~~racing~~] day ***of live racing conducted by the association***, at the discretion of such track, shall not be less than sixteen and one-half percent (16 1/2%) nor more than seventeen and one-half percent (17 1/2%) in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime.

(2) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a race track under the jurisdiction of the Kentucky State Racing Commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed ***twenty-two*** [~~nineteen~~] percent ***(22%)*** [~~(19%)~~] of the gross handle in races where the patron is required to select two (2) ***or more*** horses, and the breaks, which breaks shall be made and calculated to the dime.

(3) The minimum wager to be accepted by any licensed association shall be two dollars ($2.00). The minimum pay-off on a two dollar ($2.00) wager shall be two dollars and twenty cents ($2.20); provided, however, in the event of a minus pool, the minimum pay-off for a two dollar ($2.00) wager shall be two dollars and ten cents ($2.10).

(4) The racing association averaging ***one million two*** [~~nine~~] hundred thousand dollars ***($1,200,000)*** [~~($900,000)~~] or less ***in on-track parimutuel handle*** per [~~racing~~] day ***of live racing conducted by the association*** shall pay to the backside improvement fund an amount equal to one-half of the one percent (1/2 of 1%) of its commissions ***derived from on-track pari-mutuel wagers***.

Section 4. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and Appaloosa racing at a thoroughbred race meeting within the Commonwealth of Kentucky ***or to engage in simulcasting and intertrack wagering as a receiving track*** during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before ***June 1 with respect to applications to conduct live race meetings, and on or before October 1, with respect to intertrack wagering dates*** [~~a day fixed by the commission~~]. The application shall specify the location of the track and the days on which racing ***or intertrack wagering, or both,*** is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule require. ***Nothing in KRS Chapter 230 shall be construed as requiring a track or the intertrack facility to obtain a license from more than one (1) commission.***

(2) The commission shall as soon as practicable, but in no event later than ***September*** [~~March~~] 1 in any calendar year award dates for racing in the Commonwealth during the ***next*** year. ***Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377(2).*** In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after ***September*** [~~March~~] 1 additional racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue such license to conduct a thoroughbred race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together

with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.215 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track which is granted overlapping dates ***for the conduct of a live race meeting*** with another thoroughbred or harness racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or Appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and Appaloosa racing at a thoroughbred race meeting on any day of the year. Thoroughbred racing or Appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with thoroughbred racing or Appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or Appaloosa race not licensed by this section or KRS 230.620 to 230.760 is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 5. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in thoroughbred racing or Appaloosa racing at a thoroughbred race meeting in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed ***or any person authorized to receive or cash pari-mutuel wagers at the licensed intertrack facility***, shall first apply to the commission for a license to participate in such activity [~~on association grounds during a race meeting~~]. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the commission fingerprints as may be required and such other information as may be necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky state police and the federal bureau of investigation in order to conduct a criminal history background check of an applicant. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. ***A*** [~~Such~~] license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all thoroughbred race meetings ***and the intertrack facility*** in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under this chapter.

Section 6. KRS 230.350 is amended to read as follows:

***(1)*** Any person licensed by this commission under KRS 230.300 may be issued a license by the Alcoholic Beverage Control Board and may hold a distilled spirits and wine special temporary license and malt beverage special temporary license as provided in KRS 243.260 and 243.290. The licenses, and each of them, when issued shall be valid and effective only upon premises licensed by this commission and upon the dates and hours for which racing ***or intertrack wagering*** has been authorized by this commission. ***A temporary license may be issued for the period the racing or intertrack wagering has been authorized, even if the period exceeds the thirty (30) days as provided in KRS 243.260 and 243.290.***

***(2) Other provisions of the Kentucky Revised Statutes notwithstanding, in a county containing a city***

***of the third or fourth class, a limited sale precinct election may be held in any precinct containing a licensed racing association. The election shall be conducted in the same manner as provided for in KRS 242.1292. Upon approval of the proposition, a license shall be issued in accordance with subsection (1) of this section.***

Section 7. KRS 230.376 is amended to read as follows:

As used in KRS 138.510, 230.260, 230.320, 230.361, 230.374 to 230.379, 230.620, 230.750, and 230.770 unless the context requires otherwise:

(1) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering.

(2) "Track" means any association duly licensed ***as of January 1, 1990*** by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission to conduct horse racing. ***Track shall not include any facility or real property that is owned or purchased by a track but is not contiguous to track premises. For the purposes of simulcasting and intertrack wagering, track may include one (1) facility located in each county containing more than one (1) track, which has been established by agreement between or among all tracks in the county to participate in simulcasting and intertrack wagering as a receiving track in lieu of participation at the tracks on specified dates. All tracks agreeing to establishment of the facility and participation in simulcating and intertrack wagering on specific dates shall be considered as participating in intertrack wagering.***

(3) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track ***or intertrack facility***.

(4) "Host track" means the track conducting racing and offering its races for simulcasting.

(5) "Receiving track" means a track where simulcasts are displayed for wagering purposes.

(6) "Commission of jurisdiction" means the racing commission under whose authority a track is licensed and regulated to conduct horse racing.

(7) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call ***or by communication through other electronic media owned by the holder of the account,*** to the track [~~or by communication through other electronic media~~].

***(8) "Intertrack facility" means a facility duly licensed by the Kentucky State Racing Commission to conduct simulcasting and intertrack wagering and which is owned or leased and operated by a joint venture of tracks in accordance with KRS 230.377(5). The joint venture may include tracks licensed by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission, which were licensed as tracks as of January 1, 1990.***

Section 8. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, [~~a host track and~~] a [~~receiving~~] track ***may apply to its respective commission of jurisdiction for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300 and 230.690.***

***(2) On or before November 1 of each year the Kentucky State Racing Commission and the Kentucky Harness Racing Commission shall meet in joint session and award simulcasting and intertrack wagering dates for the entire succeeding calendar year, including dates for which a track has exercised its right of first refusal as follows: Except as provided in KRS 230.377(6), in counties containing more than one (1) track, each track shall have the right of first refusal to receive at least sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, of host tracks of the same breed as the receiving track if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990. Each track shall designate the intertrack wagering dates for which it exercises this right of first refusal in its application for intertrack wagering dates. The commissions shall approve no more than nine (9) tracks for participation in intertrack wagering. Each commission shall have one (1) vote. Each commission shall poll its members and a simple majority of members present and voting shall determine the vote of each commission. In the event a decision cannot be reached as to the balance of dates to be awarded, the secretary of the Public Protection and Regulation Cabinet shall resolve the impasse.***

***(3) For the balance of calendar year 1990 after the effective date of this Act, the commissions shall award simulcasting and intertrack wagering dates in the following manner: tracks shall make application for 1990 dates within two (2) weeks of the effective date of this Act. Within two (2) weeks following the application deadline, the commissions shall award dates. Dates awarded for 1990 shall not, however, abridge any contractual agreements entered into prior to the effective date of this Act.***

***(4) A track may by regulation be required to simulcast its races to one (1) or more receiving tracks or the intertrack facility approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300 and 230.690, provided that:***

***(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting, at its discretion;***

***(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to one another or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to one another; and***

***(c) In the absence of a contract between a host track and a receiving track, or intertrack facility, the commission shall be split as provided for in KRS 230.378(3).***

***(5) The commissions may approve one (1) intertrack facility for participation in intertrack wagering, provided it is located more than one hundred (100) miles from a track approved for participation in intertrack wagering under subsection (2) of this section, and provided it is located in a county containing a first or second class city. The intertrack facility may be located within one hundred (100) miles of a track, if agreed to in writing by the track or tracks affected. Upon approval of the commissions, the Kentucky State Racing Commission shall have authority to license and regulate the intertrack facility in the same manner as tracks are licensed and regulated. The intertrack facility shall apply for intertrack wagering dates as provided for in subsections (1) and (2) of this section. Any track may enter into agreements with one (1) or more other tracks for the establishment and operation of the intertrack facility, on terms and conditions the tracks may determine. Any agreements relating to a joint venture of this nature shall be filed with the Kentucky State Racing Commission. Applications for the intertrack facility shall be filed by and, pursuant to this subsection, a license issued to, a joint venture by the Kentucky State Racing Commission in accordance with KRS 230.300*** [~~may, at their discretion, enter into agreements for and engage in simulcasting and intertrack wagering in accordance with the provisions of KRS 138.510, 230.260, 230.320, 230.361, 230.374 to 230.379, 230.620, 230.750 and 230.770.~~

~~(2) In a county with a population of one hundred fifty thousand (150,000) or more people and containing more than one (1) track, receipt of simulcasting and participation in intertrack wagering as a receiving track on the same days on which racing is conducted in the county is prohibited unless the track conducting racing agrees in writing to such simulcasting~~].

***(6)***[~~(3)~~] In a county with a population of less than one hundred fifty thousand (150,000) people and containing more than one (1) track, the track which conducts racing of the same breed as a host track shall have an exclusive right of first refusal for the simulcasts of such races. If the track conducting racing of the same breed does not receive the simulcasts, the other track in the county may do so and all tracks may receive the simulcasts if agreed to in writing by the tracks affected.

[~~(4) In a county with a population of one hundred fifty thousand (150,000) or more people and containing more than one (1) track, the track which conducts racing of the same breed as a host track shall approve in writing the simulcasting of racing of that breed before another track in the same county may simulcast such races. All tracks may receive the simulcasts if agreed to in writing by the tracks affected.~~]

***(7)***[~~(5)~~] A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission of jurisdiction to be of sufficient national or international significance or interest to warrant interstate wagering. All interstate simulcasting shall be conducted in accordance with applicable federal laws.

***(8)***[~~(6)~~] Each commission of jurisdiction ***may*** [~~is vested with power to~~] promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating the conditions under which such wagering shall be held and conducted. [~~Such~~] Administrative regulations ***shall*** [~~are to~~] provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All [~~such~~] administrative regulations shall be in conformity with the provisions of KRS 138.510, 230.260, 230.320, 230.361, 230.374 to 230.379, 230.620, 230.750 and 230.770.

Section 9. KRS 230.378 is amended to read as follows:

(1) A receiving track ***or intertrack facility*** may accept wagers only at the track ***or facility*** where it is licensed to conduct its race meeting ***or conduct intertrack wagering. A receiving track may accept wagers*** [~~or~~] through a telephone account wagering system[~~, or both~~]. Wagers at a receiving track, ***at the intertrack facility or on telephone account wagering*** shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to subsection ***(7)*** [~~(5)~~] of KRS 230.377.

(2) The commission of a receiving track, ***the intertrack facility or on telephone account wagering*** shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows: twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(4) ***In the absence of a valid contract with a horseman's organization, the commission of the intertrack facility, after deduction of applicable taxes and other applicable deductions, shall be split as follows; twenty-two percent (22%) to the host track, twenty-two percent (22%) to the intertrack facility and forty-four percent (44%) to the purse program at the host track. Twelve percent (12%) shall be allocated evenly between the host track and the intertrack facility to cover the costs of simulcasting, unless otherwise agreed to by contract.***

***(5)*** The deduction for the backside improvement fund, as provided for in KRS 138.515(4) and the deduction for equine drug research provided for in KRS 230.265(3), shall not apply to the commission or pari-mutuel tax of a receiving track***, the intertrack facility or telephone account wagering.***

***(6)***[~~(5)~~] A receiving track ***or the intertrack facility*** shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission of jurisdiction.

Section 10. KRS 230.379 is amended to read as follows:

(1) A track may engage in telephone account wagering, provided that all telephone calls to place wagers be made to a location within the track enclosure, and provided that all moneys used to place telephone account wagers be on deposit in an amount sufficient to cover the wagers at the track where the account is opened. All moneys wagered by telephone account wagering shall be subject to the applicable pari-mutuel tax levied in KRS 138.510 and shall form a common pool with other pari-mutuel pools at the track for each posted race. The commission of jurisdiction shall have authority to promulgate necessary and reasonable administrative regulations to regulate the conduct of telephone account wagering ***including regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer.***

(2) A track shall accept and tabulate a telephone account wager only from the holder of a telephone wagering account. No person shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of a telephone wagering account. No person shall in any manner place a wager through telephone account wagering, on behalf of a holder of a telephone wagering account. Only the holder of a telephone wagering account shall place a telephone wager. Any person violating this subsection shall be guilty of a class A misdemeanor.

(3) Telephone account wagering conducted in accordance with the provisions of this section shall not be considered a violation of KRS 528.110.

Section 11. KRS 230.690 is amended to read as follows:

(1) Any person desiring to conduct standardbred, quarter horse, Appaloosa or Arabian horse racing within the Commonwealth of Kentucky ***or to engage in simulcasting and intertrack wagering as a receiving track*** during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before ***June 1 with respect to application to conduct live race meetings and on or before October 1 with respect to intertrack wagering dates*** [~~a day fixed by the commission~~]. The application shall specify the location of the track and the days on which racing ***or intertrack wagering or both,*** is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule, require. ***Nothing in KRS Chapter 230 shall be construed as requiring a track or the intertrack facility to obtain a license from more than one (1) commission.***

(2) The commission shall as soon as practicable, but in no event later than ***September*** [~~February~~] 1 in any calendar year award dates for racing in the Commonwealth during the ***next calendar*** year. ***Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377(2).*** In the event scheduled racing is cancelled by reason of flood, fire, inclement weather, or other causes, the commission may award after ***September*** [~~February~~] 1 additional racing dates to make up for those dates cancelled by such flood, fire, inclement weather, or other causes. The commission may issue such license to conduct a standardbred, quarter horse, Appaloosa or Arabian horse race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such

association would serve to nurture, promote, develop, or improve the standardbred, quarter horse, Appaloosa and Arabian industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including, but not limited to, purses and awards to owners of horses participating in races.

(3) Every license issued under this section shall specify among other things the name of the person to whom issued, the address and location of the track where the race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a standardbred, quarter horse, Appaloosa or Arabian horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for horse racing because of flood, fire or other catastrophe or other causes, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) The commission may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with standardbred, quarter horse, Appaloosa or Arabian horse racing or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(6) The fee for a license issued under this section shall be in such amount as prescribed by the commission.

(7) Every standardbred, quarter horse, Appaloosa or Arabian horse race not licensed under this section is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 12. KRS 230.750 is amended to read as follows:

***(1)*** The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a horse track under the jurisdiction of the commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime. Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta and other types of exotic betting. Effective July 1, 1990, an amount equal to three percent (3%) of the total amount wagered and included in the commission of a host track shall be allocated by the host track in the following manner. Two percent (2%) shall be allocated to the host for capital improvements, promotions, including advertising, or purses, as the host track shall elect. Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses. One-quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred, quarterhorse, appaloosa and arabian development fund. Such allocation shall be made after deduction from the commission of the pari-mutuel tax but prior to any other deduction, allocation or division of the commission.

***(2) Each racing association licensed by the Kentucky Harness Racing Commission shall pay an amount equal to one-half of one percent (1/2 of 1%) of its commissions into a revolving fund to be known as the harness backside improvement fund, and created herein. The provisions of this subsection shall not, however, apply to any association which does not own its backside as of the effective date of this Act. Moneys deposited to the fund shall be allocated back to racing associations in the same percentage paid in, for projects and programs to promote, enhance and improve the condition of association backsides. The commission shall approve any backside improvement project financed in whole or in part by backside improvement funds.***

Section 13. Whereas, it is necessary to begin the application process immediately for awarding simulcasting and intertrack wagering dates, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Title Amendment to **HB 536** is as follows:

Amend printed copy of **HB 536** by deleting the original title and inserting in lieu thereof the following:

"AN ACT relating to horse racing and activities conducted at horse racing facilities and declaring an emergency."

**HB 732,** AN ACT relating to alcoholic beverages.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, ***except as provided in KRS 243.050 and this section,*** or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second, third or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second, third or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second, third or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and [~~subsections (2), (4) and (6) of~~] this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine ***shall*** [~~must~~] be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first, [~~or~~] second, ***or third*** class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county ***or city***)?"

(3) In any county containing a city of the first, [~~or~~] second, ***or third*** class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in [~~subsections (2) and (4) of~~] this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first, [~~or~~] second, ***or third*** class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned[~~, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food~~].

(5)[~~(a) Any hotel, motel, restaurant operation, convention center or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.~~

~~(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves~~] ***In any city of the first, second or third class, upon a determination that economic hardship exists in the city or that the general trade, business, economy and tourism of the city shall be best served by reason of the sale of alcoholic beverages by the drink on Sunday, the governing body of the city shall by duly enacted ordinance establish the hours and times in which distilled spirits and wine by the drink may be sold within its jurisdictional boundaries.***

(6) Any city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185(1), may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by [~~subsections (2) and (4) of~~] this section. Such special licenses shall only be issued to those hotels, motels, inns or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

### Calendar

**HB 15** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**SB 72, SB 143, SB 145, SB 146** and **SB 147** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Orders of the Day

**HB 520**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Substitute to **HB 520**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 520**. Agreed.

Representative B. Smith moved that **HB 520**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 6, 1990 roll call on **HB 520** - Appendix.)

**HB 520**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 520**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 378**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Amendment No. 1 to **HB 378**. Agreed.

Representative Blevins moved the adoption of Floor Amendment No. 1 to **HB 378**. Agreed.

Representative Blevins moved that **HB 378**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 6, 1990 roll call on **HB 378** - Appendix.)

**HB 378**, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 378**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 164**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to **HB 164**. Agreed.

Representative Burch moved that **HB 164**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 10. (See March 6, 1990 roll call on **HB 164** - Appendix.)

**HB 164**, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 164**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HJR 123** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HJR 123** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 6, 1990 roll call on **HJR 123** - Appendix.)

**HJR 123** was passed and the title agreed to.

Representative Lear moved that the vote by which **HJR 123** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 261**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of Committee Substitute to **HB 261**. Agreed.

Representative Priddy moved that **HB 261**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 6, 1990 roll call on **HB 261** - Appendix.)

**HB 261**, by way of Committee Substitute, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 261**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 458**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of Committee Substitute to **HB 458**. Agreed.

Representative Crupper moved that **HB 458**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 6, 1990 roll call on **HB 458** - Appendix.)

**HB 458**, by way of Committee Substitute, was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 458**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 57**, **SB 166**, **SB 213**, **SB 214** and **SCR 20** had been examined and found correctly enrolled. Said Bills and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:34 p.m.)

### Orders of the Day (Continued)

**HB 497**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Substitute to **HB 497**. Agreed.

Representative Cyrus moved that **HB 497**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 6, 1990 roll call on **HB 497** - Appendix.)

**HB 497**, by way of Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 497**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 522**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Floor Amendment No. 1 to **HB 522**. Agreed.

Representative Clarke moved that **HB 522**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 3. (See March 6, 1990 roll call on **HB 522** - Appendix.)

**HB 522**, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 522**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 423**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 423**. Agreed.

Representative Little moved that **HB 423**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 6, 1990 roll call on **HB 423** - Appendix.)

**HB 423**, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 423**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 358**, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 358**. Agreed.

Representative Clarke moved the adoption of Committee Amendment No. 2 to **HB 358**. Agreed.

Representative Clarke moved the adoption of Floor Amendment No. 2 to **HB 358**. Agreed.

Representative Clarke moved that **HB 358**, as amended, be passed.

On the roll call the vote was: Yeas 70, Nays 18. (See March 6, 1990 roll call on **HB 358** - Appendix.)

**HB 358**, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 358**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 442** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HB 442** be passed.

On the roll call the vote was: Yeas 95, Nays 4. (See March 6, 1990 roll call on **HB 442** - Appendix.)

**HB 442** was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 442** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 508** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 508** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 6, 1990 roll call on **HB 508** - Appendix.)

**HB 508** was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 508** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 553** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved that **HB 553** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 6, 1990 roll call on **HB 553** - Appendix.)

**HB 553** was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 553** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 577** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Northup moved that **HB 577** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See March 6, 1990 roll call on **HB 577** - Appendix.)

**HB 577** was passed and the title agreed to.

Representative Northup moved that the vote by which **HB 577** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 586** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 586** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 6, 1990 roll call on **HB 586** - Appendix.)

**HB 586** was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 586** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 594** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 594** be passed.

On the roll call the vote was: Yeas 42, Nays 46. (See March 6, 1990 roll call on **HB 594** - Appendix.)

**HB 594** was defeated.

**HB 713**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Committee Amendment No. 1 to **HB 713**. Agreed.

Representative Ford moved that **HB 713**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 6, 1990 roll call on **HB 713** - Appendix.)

**HB 713**, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 713**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 595**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 595**. Agreed.

Representative Moberly moved that **HB 595**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 5. (See March 6, 1990 roll call on **HB 595** - Appendix.)

**HB 595**, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 595**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 605** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HB 605** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 6, 1990 roll call on **HB 605** - Appendix.)

**HB 605** was passed and the title agreed to.

Representative Ark moved that the vote by which **HB 605** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 615** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HB 615** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 6, 1990 roll call on **HB 615** - Appendix.)

**HB 615** was passed and the title agreed to.

Representative Ark moved that the vote by which **HB 615** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 616** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 616** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 6, 1990 roll call on **HB 616** - Appendix.)

**HB 616** was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 616** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 643** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 643** be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See March 6, 1990 roll call on **HB 643** - Appendix.)

**HB 643** was passed and the title agreed to.

Representative Little moved that the vote by which **HB 643** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 679** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 679** be passed.

On the roll call the vote was: Yeas 85, Nays 11. (See March 6, 1990 roll call on **HB 679** - Appendix.)

**HB 679** was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 679** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 76**, with Committee Substitute and Committee Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of Committee Substitute to **HCR 76**. Agreed.

Representative Nett moved that **HCR 76**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 6, 1990 roll call on **HCR 76** - Appendix.)

**HCR 76**, by way of Committee Substitute, was passed.

Representative Nett moved the adoption of the Committee Title Amendment to the Committee Substitute to **HCR 76**. Agreed; and the title was agreed to.

Representative Nett moved that the vote by which **HCR 76**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 52** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved that **SB 52** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 6, 1990 roll call on **SB 52** - Appendix.)

**SB 52** was passed and the title agreed to.

Representative Ward moved that the vote by which **SB 52** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 350**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 350** is as follows:

Amend printed copy of **HB 350** on page 2, after line 23, by inserting the following language:

"Section 2. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of ***five hundred dollars ($500)*** [~~two hundred dollars ($200)~~] or more is sustained shall, within ten (10) days, report the matter in writing to the justice cabinet."

Representative Long moved that the House concur in Senate Amendment No. 1 to **HB 350**. Agreed

Representative Long moved that **HB 350**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 82, Nays 15. (See March 6, 1990 roll call on **HB 350** - Appendix.)

**HB 350**, as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 350**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 88**, with Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 88** is as follows:

Amend printed copy of **HB 88** on page 2, below line 6, add the following:

"Section 2. Whereas paging devices are used in the sale and distribution of illegal drugs and where such practices should be deterred, especially on school properties, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.".

The Senate Amendment No. 2 Title to **HB 88** is as follows:

Amend printed copy of **HB 88** by amending the title by inserting after the word "students" "and declaring an emergency".

Representative Butler moved that the House concur in the Senate Amendment No. 1 to **HB 88**. Agreed.

Representative Butler moved that the House concur in Senate Amendment No. 2 Title to **HB 88**. Agreed; and the title was agreed to.

Representative Butler moved that **HB 88**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 3. (See March 6, 1990 roll call on **HB 88** - Appendix.)

**HB 88**, as amended by the Senate, was passed.

Representative Butler moved that the vote by which **HB 88**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 600**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of Floor Amendment No. 1 to **HB 600**. Agreed.

Representative O'Brien moved that **HB 600**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 5. (See March 6, 1990 roll call on **HB 600** - Appendix.)

**HB 600**, as amended, was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 600**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

### Motions, Petitions and Communications

Representative Stumbo moved that **HB 822** be reassigned to the Committee on Judiciary. Agreed.

Representative Stumbo moved that **HB 623** be recommitted to the Committee on Economic Development and Tourism. Agreed.

Representative Stumbo moved that **HB 772** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Introduction of Bills and Resolutions

**HR 193**, by Representative Long: A RESOLUTION honoring the Shelby County Community Theater and wishing its cast and crew well at the upcoming Southeast Regional Competition in Nashville.

**HR 194**, by Representative Sheehan: A RESOLUTION honoring the Ludlow Christian Church on the occasion of its One Hundred Fiftieth Anniversary.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 411, HB 157, HB 800, HB 803, HB 911, SB 136.**

State Government: **HB 648, HB 514, HB 762, HB 763, HB 752, HB 753.**

Education: **SB 245**.

Economic Development and Tourism: **SCR 55**, **SB 178**, **HCR 186**, **HCR 182**, **HB 750**, **HCR 169**, **HCR 170**, **HJR 178**, **HB 816**, **HJR 150**, **HB 698**, **SB 231**, **HB 857**, **HB 858**, **HB 881**, **HB 904**, **SCR 74**, **SCR 75**.

Labor and Industry: **HB 647**, **HB 865**, **HB 871**, **HB 907**, **HB 908**, **HB 924**, **HB 926**, **HJR 183**.

Cities: **HB 776**, **HB 845**.

Natural Resources and Environmental Protection: **HB 796**, **SB 256**, **HB 620**, **HB 291**.

Judiciary: **HB 892**, **HB 889**, **HB 795**.

The Clerk announced the following Resolutions have been withdrawn from Committee Consideration:

Economic Development and Tourism: **HCR 127**, **HCR 128**.

### Report of Committees

The Committee on Natural Resources and Environmental Protection reported **HB 293** with Committee Amendment attached thereto, **HB 461** with Committee Amendment attached thereto, **HB 526** with Committee Amendment attached thereto, **HB 676** with Committee Amendment attached thereto, **HB 807** and **HCR 153** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 293**, AN ACT relating to recycled newsprint.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***(1) The General Assembly finds that throughout the United States local, state and federal policy makers are turning to the reuse of materials found in solid waste as a necessary component of solid waste management. In addition, the General Assembly finds that citizens are positively responding to this concept and recycling programs are quickly spreading throughout the country. The consequence of the rapid accumulation of materials recovered from the waste stream is a correspondingly rapid deterioration of the markets for selected commodities. This threatens the long term viability of these markets and ultimately the success of recycling as a waste management tool.***

***(2) The General Assembly recognizes that 1986 statistics indicate that paper and paperboard comprise forty-one percent (41%) of the solid waste stream generated in the United States. The sixty-five (65) million tons of paper generated in 1986 is projected to increase to eighty-five (85) million tons in the year 2000. Eighty percent (80%) of this volume is landfilled, ten percent (10%) is recycled and the remaining ten percent (10%) is incinerated.***

***(3) Recognizing the substantial proportion of the waste stream volume taken up by discarded paper products, the General Assembly further finds that initiatives to stabilize and stimulate markets for newsprint will consequently preserve a greater proportion of landfill space. It is an additional finding that although a recent study concludes that a ton of newsprint made from one hundred percent (100%) recycled newsprint costs less than a ton of newsprint from virgin material, there is not sufficient demand for recycled newsprint to encourage the construction or retrofitting of pulp mills to produce newsprint from recycled newspapers. Last, the General Assembly finds that fifty-eight percent (58%) of newsprint used in the United States is imported and virtually all is from virgin pulp.***

***(4) Therefore, the General Assembly seeks, through this enactment, to encourage the use of a national resource by stimulating the markets for recycled newsprint and thus preserve landfill space for future needs.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***(1) Newspaper publishers with paid daily circulation rates of fifteen thousand (15,000) or more subscribers shall notify the cabinet that:***

***(a) By July 15, 1991, the newspaper publisher shall implement a program to recover newspapers from the waste stream in an amount equal to at least fifty percent (50%) of the paid daily circulation rate; or***

***(b) By July 15, 1991, the newspaper publisher shall use newsprint containing at least twenty percent (20%) recycled newsprint.***

***(2) On July 15, 1992, the recovery rate of newspapers from the waste stream shall increase to seventy-five percent (75%) or the newsprint used shall increase to a content of at least forty percent (40%) recycled newsprint.***

***(3) Each newspaper publisher subject to this Act shall certify to the cabinet when each percentage goal is reached.***

The Committee Amendment No. 1 to **HB 293** is as follows:

Amend printed copy of **HB 293** on pages 2 and 3, by deleting Section 2 in its entirety; and

On page 2, after line 22, by inserting the following new section:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***Recognizing that ink produced from soybean oil is biodegradable with no known negative environmental impacts, and that these factors may enhance the recyclability of newsprint using soybean oil based inks and may reduce the environmental impacts of de-inking recycled newsprint, newspaper publishers shall use soybean oil based inks in the publication of newspapers within the Commonwealth.***"

**HB 461**, AN ACT relating to mining.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 352.030 is amended to read as follows:

(1) As many as sixty (60) persons may work in the same air current or split, and with the approval of the mine inspector and the commissioner, as many as eighty (80) persons may work in the same air current. Every mine, and all portions thereof, shall be ventilated by one (1) or more currents of air, which shall contain not less than nineteen and one-half percent (19 1/2%) of oxygen, nor more than one-half percent (.5%) of carbon dioxide, nor any dangerous quantities of inflammable gas, nor any harmful amount of poisonous gases or dust, when the current of air enters into each split. [~~In any event,~~] The ventilation shall be sufficient to prevent methane accumulations, so far as practicable, and to keep the methane percentage in the return of any split to not more than two (2%) percent.

(2) The ventilating current shall be circulated through the haulageways, travelways and airways [~~so as~~] to reach all portions of the mine, except sealed sections; and it shall be circulated through the entries and rooms around the ends of line brattice and along pillar lines. It shall be conducted to the last breakthrough, or to the working faces if required, by means of [~~such~~] stoppings, check doors, curtains and brattice ***that*** [~~as~~] may be necessary or required, in order to dilute, render harmless and carry away the noxious and dangerous gases, smoke and dust liberated therein, and to supply a sufficient quantity of ventilation for all emergencies. ***The ventilating current in the area of a mine's belt entries shall be directed to an air return before the ventilating current reaches the face area.***

(3) When mine ventilation, formerly satisfactory and adequate, becomes deficient in quality or quantity, the department shall have authority to order improvement of the ventilation.

(4) No operator, superintendent or mine foreman shall permit any person to work at a place where sufficient ventilation cannot be maintained, except persons employed to make the places of employment safe in compliance with the requirements of this chapter, and while repair work necessary to comply with the requirements is in progress no person shall be permitted to enter that part of the mine affected except those actually employed in doing the repair work. ***The*** [~~Such~~] repair work shall be done under the constant supervision of a certified official designated by the mine foreman.

(5) Each operator shall adopt a plan within sixty (60) days after June 16, 1972, which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent:

(a) To withdraw all persons from the working sections;

(b) To cut off the power in the mine in a timely manner;

(c) To provide for restoration of power and resumption of work if ventilation is restored within a reasonable period, of not more than fifteen (15) minutes, as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of one percent (1%) or more exists therein; and

(d) To provide for withdrawal of all persons from the mine if ventilation cannot be restored within ***a*** [~~such~~] reasonable time, of not more than fifteen (15) minutes. The plan and revisions thereof approved by the commissioner shall be set out in printed form and a copy shall be furnished to the commissioner or his authorized representative.

The Committee Amendment No. 1 to **HB 461** is as follows:

Amend printed copy of **HB 461** on page 2, line 10, by adding after "***area***" the following: "***, unless the department, under certain conditions issues a permit for belt air to be used at the coal face. The department shall render a final written decision within sixty (60) calendar days of receipt of the permit application***".

**HB 526**, AN ACT relating to mining.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 351.060 is amended to read as follows:

(1) The commissioner of the Department of Mines and Minerals shall be a citizen of Kentucky and shall be thoroughly familiar with all methods of safety pertaining to the operation of mines***, and have at least five (5) years of underground mining experience***.

(2) The commissioner shall have a practical knowledge of:

(a) The different systems of working and ventilating coal mines.

(b) The nature, chemistry and properties of noxious, poisonous and explosive gases, the dangers due to such gases and the prevention of such dangers.

(c) The dangers incident to blasting and the prevention of such dangers.

(d) The methods for the management and extinguishment of mine fires.

(e) The methods for rescue and relief work in mine disasters.

(f) The application of electricity in mining oprations.

(g) The application of mechanical loading in mining operations.

(h) The equipment and explosives manufactured for use in coal mines.

(i) The mechanical features of mine scales and the methods used in properly inspecting and testing such scales.

(j) The methods used in locating oil and gas wells when drilled through any coal seam.

(k) The proper manner of drilling and plugging oil and gas wells.

(l) Mining engineering.

(m) The methods for the prevention of explosions in mines due to gas or dust.

(3) The commissioner shall be capable of efficiently reporting on any proposed development in mining operations or the possibility of operating any coal seam.

The Committee Amendment No. 1 to **HB 526** is as follows:

Amend printed copy of **HB 526** on page 1, line 6, by adding after the word "***experience***" and before the "." the following:

"***, a high school diploma or a GED certification, and hold a valid first class mine foreman's certificate in Kentucky***"

**HB 676**, AN ACT relating to mining.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.720 is amended to read as follows:

(1) There is hereby established an alternative bonding program to be known as the "bond pool." Any permittee of a surface coal mining operation located in Kentucky who meets the criteria set forth in this section and in administrative regulations promulgated by the cabinet shall be eligible to participate in the bond pool. Participation in the pool shall be voluntary.

(2) Except as provided in KRS 350.700 to 350.755, membership in the bond pool and compliance with the requirements of KRS 350.700 to 350.755 shall satisfy the requirement to post bond in accordance with KRS 350.060***(11)***[~~(14)~~].

(3) An application fee shall be charged not to exceed one hundred dollars ($100). The application fee may be applied to the membership fee set forth in KRS 350.725(1).

(4) Except as provided in subsection (5) of this section, every permit held by a member of the bond pool shall be included in the pool, except for portions of permits disturbed prior to the member's admission into the pool, to which the provisions of KRS 350.735(4) shall apply.

(5) [~~No two (2) acre or less operation as defined in KRS 350.060(15) and~~] No acreage on which is located a coal preparation plant, tipple, or loading facility shall be eligible for bond coverage by the bond pool fund.

(6) The bond pool fund shall not assume any part of a member's responsibility for damage due to subsidence which occurs in connection with underground mining or auger mining.

(7) An applicant shall be ***and a member shall remain*** eligible for membership in the bond pool only if the bond pool commission determines that the applicant ***or member*** is in good financial standing and fulfills the criteria of one (1) of the following ratings:

(a) An "A" rating shall be assigned to ***any*** [~~an~~] applicant ***or member*** who:

1. For a period of at least five (5) of the seven (7) years immediately preceding the application for membership in the pool, has held, under the same permittee name or other permittee name as provided in paragraph (d) of this subsection, a permit issued by the cabinet to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an excellent compliance record as defined by the administrative regulations of the cabinet;

(b) A "B" rating shall be assigned to any applicant ***or member*** who:

1. For a period of at least five (5) of the seven (7) years immediately preceding the application for membership in the pool, has held, under the same permittee name or other permittee name as provided in paragraph (d) of this subsection, a permit to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an acceptable compliance record as defined by the administrative regulations of the cabinet;

(c) A "C" rating shall be assigned to any applicant ***or member*** who:

1. For a period of at least three (3) of the five (5) years immediately preceding the application for membership in the pool, has held, under the same permittee name or other permittee name as provided in paragraph (d) of this subsection, a permit to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an acceptable compliance record as defined by the administrative regulations of the cabinet.

(d) When approved by the commission on a case-by-case basis, permits held by persons other than the applicant ***or member*** may be used to demonstrate the years of mining experience of the applicant ***or member*** as set forth in this paragraph:

1. A person who owns fifty percent (50%) or more of the applicant ***or member***;

2. A person who is owned fifty percent (50%) or more by a person under subparagraph 1. of this paragraph; or

3. Persons whose combined ownership of the applicant ***or member*** is fifty percent (50%) or more, ***if*** [~~provided that~~] each person ***meets*** [~~shall meet~~] the years of mining experience required under this subsection.

(8) Upon request of any member, not to exceed once per year, the commission may upgrade the member's rating. The commission may downgrade the rating of any member at any time upon the recommendation of the bond pool administrator. Any such revision shall be made in accordance with the criteria set forth in this section. When a member's rating is downgraded, the commission may increase the permit-specific bond already posted in accordance with KRS 350.735.

(9) The cabinet shall promulgate administrative regulations establishing methods and criteria for determining if an applicant ***or member*** is in good financial standing. The cabinet shall also promulgate such regulations for determining if an applicant ***or member*** has an excellent or acceptable compliance record, which may include, but shall not be limited to:

(a) Number and seriousness of violations for which the applicant ***or member*** has been cited;

(b) Whether the applicant ***or member*** has abated cited violations in a timely fashion;

(c) Whether the applicant ***or member*** has timely paid any penalties assessed against it;

(d) Whether a surety which posted bond to cover a permit area of the applicant ***or member*** has had to perform reclamation to avoid bond forfeiture; and

(e) Whether the applicant ***or member*** has received timely bond releases.

(10) For purposes of determining whether an applicant ***or member*** has an excellent or acceptable compliance record, the commission shall examine the compliance records of all persons who own or control, are owned or controlled by, or are under common ownership or control with the applicant ***or member***. Where persons other than the applicant ***or member*** are considered under subsection (7)(d) of this section, each such person's compliance record shall be considered.

(11) An ***applicant or a member's*** [~~applicant's~~] experience pursuant to a two (2) acre-or-less permit [~~as defined in KRS 350.060(15)~~] shall not be considered in the ratings assignment, except as provided in subsection (12) of this section.

(12) No application for membership in the bond pool shall be approved by the commission if it is determined that the applicant, or any person who owns or controls, is owned or controlled by, or is under common ownership or control with the applicant, is not eligible for a permit under the provisions of KRS 350.085, 350.093, or 350.130.

(13) Memberships granted by the commission and ratings assigned by the commission shall not be transferrable from one (1) permittee to another.

(14) A person need not be a member of the bond pool in order to be provided coverage under the abandoned mine land enhancement program pursuant to KRS 350.595.

Section 2. KRS 350.725 is amended to read as follows:

(1) (a) Each applicant, prior to admission into the bond pool, shall pay a membership fee as follows:

1. One thousand dollars ($1,000) for "A" rated members;

2. Two thousand dollars ($2,000) for "B" rated members; and

3. Two thousand five hundred dollars ($2,500) for "C" rated members.

(b) Any applicant accepted for membership in the bond pool fund shall, within thirty (30) calendar days following written approval of the application by the bond pool commission, submit to the bond pool administrator the appropriate membership fee by ***cash or by cashier's check, money order or*** certified check payable to the State Treasurer. If the applicant fails to submit the membership fee within ***this*** [~~such~~] time, the membership approval shall be voided.

(2) In addition to the membership fee assessed pursuant to subsection (1) of this section, each member shall pay to the fund a set fee for each ton of coal extracted by surface mining activities and a set fee for each ton of coal extracted by underground mining methods from the permit areas covered by the bond pool fund. The per ton fees shall be set by the commission based on the recommendations of the most recent actuarial study conducted in accordance with KRS 350.710(6) and shall be the same for each member regardless of rating. Reporting and payment of the tonnage fee shall be made in accordance with administrative regulations promulgated by the cabinet. Production records of members shall be made available to the commission upon request. The cabinet shall establish penalties for late payment, which shall be assessed by the bond pool administrator. If any payment is more than thirty (30) days late, the provisions of KRS 350.750 shall apply.

Section 3. KRS 350.735 is amended to read as follows:

(1) In addition to the membership fee and tonnage fee paid pursuant to KRS 350.725, bond pool members shall submit, for each permit to be covered by the bond pool, a permit-specific penal bond computed at the following rates for each acre or fraction thereof included in the proposed permit area:

(a) Five hundred dollars ($500) for "A" rated members;

(b) One thousand five hundred dollars ($1,500) for "B" rated members; and

(c) Two thousand dollars ($2,000) for "C" rated members.

(2) The permit-specific bond shall be increased by one thousand five hundred dollars ($1,500) for each acre of prime farmland to be covered by the bond pool.

(3) The permit-specific bond posted pursuant to this section shall be released in its entirety in accordance with cabinet procedures for bond release upon successful completion of that portion of reclamation set forth in KRS 350.093(4)(a) and administrative regulations promulgated pursuant thereto.

(4) If, at the time of application to the bond pool, a permittee holds one (1) or more permits which have already been disturbed, ***the*** [~~such~~] permits shall be transitioned into the bond pool in accordance with cabinet regulations. The area disturbed prior to admission to the bond pool shall not be covered by the pool, but shall be bonded in accordance with KRS 350.060***(11)***[~~(14)~~]. The undisturbed area shall be bonded in accordance with KRS 350.700 to 350.755. The cabinet may recognize exceptions when appropriate and necessary.

Section 4. KRS 350.740 is amended to read as follows:

(1) If an applicant for a permit chooses to post bond in accordance with KRS 350.700 to 350.755 as an alternative to KRS 350.060***(11)***[~~(14)~~], the permit shall not be issued until the applicant has been accepted as a member of the bond pool, has paid the applicable membership fee, and has submitted a permit-specific bond to cover the area which is the subject of the application.

(2) The cabinet shall not approve a permit transfer pursuant to KRS 350.135 until the transferee has either become a member of the bond pool based upon the transferee's own qualifications or submitted adequate bond in accordance with KRS 350.060***(11)***[~~(14)~~].

(3) Membership in the bond pool shall not relieve the member of the obligation to comply with requirements of this chapter and regulations promulgated pursuant thereto, except those provisions relating to the method of posting bond.

Section 5. KRS 350.750 is amended to read as follows:

(1) Whenever a member of the bond pool becomes more than thirty (30) days in arrears with any tonnage fee payment, the bond pool administrator shall notify the member that he has thirty (30) days to become current on his payments. If the member fails to comply within the thirty (30) days, the bond pool administrator shall recommend to the commission that it revoke his membership. The commission shall revoke the membership unless the member has paid all tonnage fees due.

(2) Whenever a member of the bond pool is issued ***an*** [~~a final~~] order for cessation and immediate compliance for failure to abate a violation of contemporaneous reclamation requirements, the bond pool administrator shall so inform the commission, which may revoke ***the*** [~~said~~] membership in the bond pool. Whenever two (2) such [~~final~~] orders are issued to a member of the bond pool, that membership shall be automatically revoked without further action on the part of the commission. Whenever the secretary has issued a final order finding that a member of the bond pool has committed a pattern of violations pursuant to KRS 350.028(4) or 350.465(3)(f), the bond pool administrator shall so inform the commission, and the commission may revoke the member's membership in the bond pool.

(3) Whenever a member of the bond pool is issued an order for cessation and immediate compliance for failure to abate any violation, the bond pool administrator shall so inform the commission, and the commission may revoke the member's membership in the bond pool.

(4) ***If a member of the bond pool transfers more than fifty percent (50%) of any class of stock or other ownership interest, whether by sale, gift, or otherwise, the member and the person to whom more than fifty percent (50%) of the interest is transferred shall notify the bond pool administrator, in writing, of the transfer within fifteen (15) days. The bond pool administrator shall review the eligibility of all persons who own or control, are owned or controlled by, or are under common ownership or control with the member after the transfer using criteria set forth in KRS 350.720, and shall report his findings to the commission. The commission shall revoke the membership if it determines that the member after the transfer does not meet the eligibility criteria.***

***(5)*** Upon revocation of membership, the permittee shall be ordered by the cabinet to cease surface coal mining operations on all of his permits until he has obtained alternate bond coverage. In the meantime, the permittee shall comply with reclamation requirements established by cabinet regulations.

***(6)***[~~(5)~~] The bond pool fund shall remain liable for reclamation of the portions of permits disturbed prior to revocation of a membership.

The Committee Amendment No. 1 to **HB 676** is as follows:

Amend printed copy of **HB 676** on page 5, line 18, after "permit" by inserting: "***that was issued prior to June 6, 1987***".

**HB 807**, AN ACT relating to hazardous waste and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste incinerator, landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(6). The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) to (5) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste incinerators, landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(6); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost ***shall*** [~~will~~] then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement ***shall*** [~~must~~] be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility ***shall*** [~~will~~] likewise be released to the applicant; and

(c) All applicants for any hazardous waste permit ***shall*** [~~must~~] provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility ***shall*** [~~must~~] be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars ($3,000,000) per occurrence with an annual aggregate of six million dollars ($6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application, the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required, in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility ***shall*** [~~must~~] be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights

and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

***(8) Any hazardous waste treatment, storage or disposal facility shall close in accordance with the permit and this chapter, if the site or facility has not been maintained in operational condition in conformance with this chapter, for any period of three (3) months or longer. The permittee shall be afforded an opportunity to be heard on the proposed termination of authorization to operate, and termination under this section shall not be required where the permittee demonstrates that steps have been taken to bring the facility, within a reasonable time not to exceed ninety (90) days, into full operational status in accordance with this chapter and applicable regulations. Within ninety (90) days, the cabinet shall review existing hazardous waste treatment, storage or disposal permits to determine compliance with this section.***

Section 2. Whereas, hazardous waste facilities may pose a threat to human health and the environment if not maintained in operational condition, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

**HCR 153,** A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and Natural Resources to study coordination efforts between government agencies responding to hazardous material spills and other emergencies and the recovery of extraordinary costs associated with such response.

WHEREAS, Title III of the Superfund Amendments and Reauthorization Act of 1986 created a state emergency response network; and

WHEREAS, there is uncertainty as to the responsibilities of state and local agencies in responding to hazardous material spills, natural disasters, and other emergencies; and

WHEREAS, there is a need for a clearly defined state emergency response plan consistent with Title III of the Superfund Amendments and Reauthorization Act of 1986 and directed at preventing duplication of services among agencies with overlapping jurisdiction;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Interim Joint Committee on Agriculture and Natural Resources study coordination between government agencies in responding to emergencies including, but not limited to, hazardous material spills, natural disasters, and other emergencies and the recovery of extraordinary costs associated with such response.

Section 2. A report of the committee's findings shall be submitted to the Legislative Research Commission no later than September 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided for from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Representative Long moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Long moved the adoption of the following **HR 193**:

**HR 193,** A RESOLUTION honoring the Shelby County Community Theater and wishing its cast and crew well at the upcoming Southeast Regional Competition in Nashville.

WHEREAS, the Shelby County Community Theater is in its thirteenth year of providing culture and entertainment to its community and our state; and

WHEREAS, the artistic endeavors of the Shelby County Community Theater have recently achieved new heights in its production, "The Dining Room"; and

WHEREAS, "The Dining Room" was declared by a panel of judges at Northern Kentucky University in November to be the winner of the Community Theater Festival, a statewide competition; and

WHEREAS, this play is directed by Harolyn Sharpe, who is also a board member of the Community Theater; and

WHEREAS, the excellence of the cast, the dedication of the crew, the support of the community, and the guidance and untiring involvement of the board of directors have all contributed to the success of the Shelby County Community Theater; and

WHEREAS, this success has culminated in "The Dining Room" being chosen to represent Kentucky in the Southeast Regional Community Theater Competition in Nashville on March 8, 1990; and

WHEREAS, there will be an encore production and reception held on Tuesday the sixth of March to wish the cast and crew well;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this esteemed body congratulates the Shelby County Community theater on its achievements.

Section 2. That the House of Representatives declares its support for the Shelby County Community Theater's worthy endeavors and champions its cause at the State Community Theatre Competition in Nashville.

Section 3. That the Clerk of the House distribute copies of this resolution to members of the Shelby County Community Theater.

**HR 193** was adopted by voice vote.

Representative Mack moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Mack moved the adoption of the following **HR 72**:

**HR 72**, A RESOLUTION commending the Kentucky Revenue Cabinet for its outstanding administration of the "Kentucky Tax Amnesty Act."

WHEREAS, the 1988 Session of the General Assembly enacted House Bill 856 to provide for a tax amnesty program to improve compliance with state tax laws and to increase and accelerate collections of certain owed state taxes; and

WHEREAS, the tax amnesty program provided a one-time-only opportunity for taxpayers to satisfy tax obligations owed to the Commonwealth with the forgiveness of all penalties and one-half of the interest owed before stepped-up tax enforcement programs took effect; and

WHEREAS, the tax amnesty program brought many new taxpayers onto the tax rolls and significantly heightened awareness among taxpayers of their legal obligations concerning the tax laws of the Commonwealth; and

WHEREAS, the Revenue Cabinet administered one of the most successful amnesty programs offered to the citizens of any state, having collected more than $61.1 million, that amount being far more than the collections of any comparable state, the closest collections to Kentucky among comparable states being North Carolina's recent program with $37.6 million; and

WHEREAS, on a per capita basis, Kentucky's tax amnesty program ranks third among all states behind only New Jersey and New York, two states with much larger tax bases; and

WHEREAS, Kentucky's per capita amnesty revenue was more than $16 while the median per capita amnesty revenue for all states which included accounts receivable in their amnesty programs was $6.62; and

WHEREAS, as a percentage of total tax base, Kentucky collected 1.90 percent, second only to New Jersey's 1.96 percent; and

WHEREAS, the tax amnesty program produced in excess of $61.1 million in tax revenues owed to the Commonwealth, exceeding the official estimate of $10.0 million six fold; and

WHEREAS, the General Assembly appropriated $650,000 for conducting the tax amnesty program of which the Revenue Cabinet expended $646,507 thus producing a return in tax collected of $94.57 for each $1 spent;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the members of this august body, both individually and collectively, do hereby commend the Kentucky Revenue Cabinet for its outstanding administration of the tax amnesty program as provided in the "Kentucky Tax Amnesty Act" enacted by the 1988 General Assembly.

Section 2. That the House does hereby recognize the efforts of the Revenue Cabinet personnel who made the amnesty program a far greater success than the House could have expected.

Section 3. That the Clerk of the House is hereby directed to transmit a copy of this resolution to the Honorable Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky, and to the Honorable C. Emmett Calvert, Secretary of the Revenue Cabinet.

**HR 72** was adopted by voice vote.

Representative Little moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Little moved the adoption of the following **HR 189**:

**HR 189**, A RESOLUTION honoring Chapter 1.

WHEREAS, April, 1990, is the twenty-fifth anniversary of the Chapter 1 Compensatory Education of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, such having initially been enacted as Title I of the Elementary and Secondary Education Act of 1965; and

WHEREAS, Chapter 1 and its predecessor Title I have provided over 1.3 billion dollars to supplement the education of Kentucky's disadvantaged children during this 25-year period; and

WHEREAS, Chapter 1 and its predecessor have had a significant, beneficial effect upon the educational attainment of Kentucky's disadvantaged children; and

WHEREAS, overwhelming credit for the passage of this landmark legislation is given to Kentucky's late Congressman Carl D. Perkins;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body expresses it deep gratitude for the efforts of the late Congressman Carl D. Perkins in support of the Chapter 1 program.

Section 2. That the House of Representatives recognizes and acknowledges the twenty-fifth anniversary of Chapter 1 and reaffirms its commitment and support for this landmark legislation and its educational benefits not only to the disadvantaged school children of Kentucky, but the nation as well.

Section 3. That the House of Representatives proclaims the week of April 8-14, 1990, as Chapter 1 Compensatory Education Week in Kentucky.

Section 4. That members of the House of Representatives urge all citizens to observe this week by making themselves better acquainted with the Chapter 1 Compensatory Education Program in the schools of the Commonwealth.

**HR 189** was adopted by voice vote.

Representative Ridley moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Ridley moved the adoption of the following **HR 190**:

**HR 190**, A RESOLUTION honoring Fred Cecil Creasey.

WHEREAS, Fred Cecil Creasey honorably served as a member of the Kentucky House of Representatives from Webster County during the 1944 and 1946 sessions; and

WHEREAS, Fred Cecil Creasey guided the city of Sebree as its Mayor for three terms in office; and

WHEREAS, following his service as representative, Fred Cecil Creasey remained closely associated with the General Assembly and acted as doorman for two sessions; and

WHEREAS, Fred Cecil Creasey has shown determination, courage and dignity in his battles with cancer and pulmonary ailments; and

WHEREAS, although his health has prevented him from being in attendance on the floor of the House of Representatives, his presence is nevertheless felt; and

WHEREAS, his concern for his constituents and for the welfare of the Commonwealth he loves has become a model for those of us who have followed after Fred Cecil Creasey as representatives;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House honors Fred Cecil Creasey for his accomplishments and for providing a shining example of conscientious service to his constituents and to the Commonwealth as a member of the House of Representatives.

Section 2. That this prestigious body extends to Fred Cecil Creasey its best wishes for a speedy and complete recovery and Godspeed in his return to the floor of the House of Representatives.

Section 3. That the House of Representatives adjourns this day in honor and recognition of Fred Cecil Creasey.

Section 4. That the Clerk of the House is directed to forward a copy of this resolution to Noretta Creasey, wife of Fred Cecil Creasey, 176 Woodgate, Frankfort, Kentucky 40601, a copy to Fred Creasey, son of Fred Cecil Creasey, 390 Kings Daughters Drive, Frankfort, Kentucky 40601 and a copy to Representative Dorsey Ridley.

**HR 190** was adopted by voice vote.

Representative Sheehan moved the adoption of the following **HR 194**:

**HR 194**, A RESOLUTION honoring the Ludlow Christian Church on the occasion of its One Hundred Fiftieth Anniversary.

WHEREAS, the first service of the Ludlow Christian Church was held in the fall of 1840; and

WHEREAS, the first Ludlow Christian Church was built in 1851, and a public school was established in the building that same year, and the city government of Ludlow was organized from this building in 1864; and

WHEREAS, the current church structure was erected in 1891, and the Ludlow Christian Church continues to serve its congregation with the same enthusiasm demonstrated by its founding fathers; and

WHEREAS, Reverend William D. Carpe is minister of the Ludlow Christian Church, and his contributions to his congregation and to the City of Ludlow will have a lasting impact on the Ludlow community for generations to come; and

WHEREAS, the Ludlow Christian Church congregation will be sponsoring a variety of events during 1990, and on Sunday, September 23, 1990, the church will host a celebration dinner with former pastors and former congregation members attending;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body hails and commends Ludlow Christian Church, its pastor, Reverend William D. Carpe, and its congregation for representing 150 years of shining and extraordinary service and guidance to its members and to the fine City of Ludlow.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Reverend William D. Carpe, Ludlow Christian Church, P.O. Box 16251-51 Elm Street, Ludlow, Kentucky 41016.

**HR 194** was adopted by voice vote.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

**HB 38**, Representative Riner; **HB 333**, Representatives Cline, Richards; **HB 378**, Representative Riner; **HB 412**, Representative Blevins; **HB 572**, Representative Riner; **HB 653**, Representative Sheehan; **HB 667**, Representative Layman; **HB 698**, Representative Riner; **HB 810**, Representatives Blevins, Cyrus, Noland; **HB 929**, Representatives Blevins, Napier, P. Richardson; **HCR 139**, by Representative Riner.

Representative Stumbo moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following Legislative Citation No. 56. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors, recognizes and commends Representative Roger Noe for his exemplary recuperative prowess as he successfully completed gall bladder surgery. Such recognition comes in contradiction to those political pundits who erroneously have described the Gentleman from Harlan as lacking intestinal fortitude to bring not only educational excellence to the Commonwealth of Kentucky, but also positive, constructive and profitable legislation to his beloved Harlan County.

Further, this body does join with the Speaker of the House and the Gentlemen from Daviess 7 and Daviess 13 who applaud Representative Roger Noe in his choice of the Owensboro Daviess County Hospital as that medical facility which carved the pound of flesh so many of Representative Noe's detractors have sought in vain to extract.

Done - with the best wishes of the House of Representatives of the General Assembly of the Commonwealth of Kentucky for a full and successful recovery - at Frankfort, Kentucky, this sixth day of March, nineteen hundred and ninety.

Representative Ark moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ark moved that he be recorded as voting "yea" on **HB 615**. Agreed.

Representative Johnson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johnson moved that he be recorded as voting "yea" on **HB 713**. Agreed.

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HB 615**. Agreed.

Representative Stokes moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Stokes moved that she be recorded as voting "yea" on **HB 595** and **HB 605**. Agreed.

Representative Mullinix moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Mullinix moved that he be recorded as voting "yea" on **HB 643** and **HB 616**. Agreed.

### Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 7 to the House Committee Substitute to **SB 68**, by Representative Moberly:

Amend printed copy of HCS to **SB 68** on page 56, after 11, insert the following:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

***No hospital which reduces its charges for services to any non governmental purchase of health care shall increase prices charged to other non governmental purchasers of care to offset such discounts. For purposes of this section, "non governmental purchaser of health care" means a third party payor, including a health insurer, mutual insurer, health maintenance organization, or self-insured employer except for Medicare, medical assistance, Civilian Health and Medical Program of the Uniformed Services, or persons who are medically indigent."***

Floor Amendment No. 4 to the House Committee Substitute No. 2 to **HB 115**, by Representative Morris:

Amend printed copy of HCS/2 to **HB 115** on page 4, line 14, by adding thereafter the following:

"***(7) A retired alcoholic beverage control investigator, control field representative, control agent, or control officer who retired as a member of the Kentucky Employees Retirement System in the nonhazardous duty classification shall have his retirement benefits upgraded to the amount which would have been paid to him had he retired with the same number of years of service in the hazardous duty classification, upon payment to the Kentucky Employees Retirement System of the difference between the employee's contribution for hazardous duty service and nonhazardous duty service for each year of service, plus interest at the assumed actuarial rate for each year, compounded at that rate from the date of payment until the date that benefits are recalculated. The retired member may make installment payments for his upgraded retirement credit by deduction from his retirement checks using the procedures of KRS 61.552(15).***".

Floor Amendment No. 5 to the House Committee Substitute No. 2 to **HB 115**, by Representative Morris:

Amend printed copy of HCS/2 to **HB 115** on page 4, line 14, by adding thereafter the following:

"***(7) A retired alcoholic beverage control investigator, control field representative, control agent, or control officer who retired as a member of the Kentucky Employees Retirement System in the nonhazardous duty classification shall have his retirement benefits upgraded to the amount which would have been paid to him had he retired with the same number of years of service in the hazardous duty classification, upon payment to the Kentucky Employees Retirement System of the difference between the employee's contribution for hazardous duty service and nonhazardous duty service for each year of service, plus interest at the assumed actuarial rate for each year, compounded at that rate from the date of payment until the date that benefits are recalculated. The retired member may make installment payments for his upgraded retirement credit by deduction from his retirement checks using the procedures of KRS 61.552(15).***".

Floor Amendment No. 1 to the Committee Substitute to **HB 653**, by Representative Worthington:

Amend printed copy of HCS to **HB 653** on page 45, line 10, by adding thereafter the following:

"Section 17. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to members retired for service or disability. Coverage may be extended to the spouses and minor children of said retired members, provided the member began participating in the Teachers' Retirement System prior to July 1, 1978. Coverage may also be extended to spouses and to minor children of members in active contributing status who are deceased prior to retirement if the surviving spouse is eligible to receive the member's retirement benefit as provided in KRS 161.525 and elects to do so. The board of trustees may offer, on a cost basis, coverage of spouses not eligible for regular coverage.

(2) ***(a)*** The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs.

***(b)*** A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2), to qualify for such coverage.

***(c) A retiree who began participating in the Teachers' Retirement System on July 1, 1990 or thereafter shall receive a percentage of the premium benefits as determined in subsection (3) of this section for his or her service as follows:***

| ***Creditable Service*** | ***Percentage of Premium Benefit*** |
|---|---|
| ***At least five (5) years but less than ten (10)*** | ***25%*** |
| ***At least ten (10) years but less than fifteen (15)*** | ***50%*** |
| ***At least fifteen (15) years but less than twenty (20)*** | ***75%*** |
| ***Twenty (20) years or more*** | ***100%*** |

***The retiree may combine creditable Kentucky service in the Teachers' Retirement System with creditable service in the Kentucky Employees' Retirement System, the County Employees' Retirement System or the State Police Retirement System to determine eligibility. In this case the Teachers' Retirement System and the insurance fund created pursuant to KRS 61.702 shall each pay their percentage of the premium determined by the ratios of the retiree's service in the Teachers' Retirement System to total service, and the retiree's service in the retirement systems contributing to the insurance fund to total service, but the Teachers' Retirement System shall not contribute to the insurance costs of spouses, dependents and beneficiaries paid by the insurance fund pursuant to KRS 61.702(4).***

(3) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the insurance program. Such charges may be flat standard amounts or based upon the amount of the annuity allowance payments or a combination of these provisions. The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund and from the premium charges received from the annuitants and the spouses. It may provide [~~such~~] insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide [~~such~~] insurance protection on a "self-insurance" basis or a combination of these provisions.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient."; and

on page 45, line 11, by changing "Section 17." to read "Section 18.".

Floor Amendment No. 2 to the Committee Substitute to **HB 653**, by Representative Worthington:

Amend printed copy of HCS to **HB 653** on page 45, line 10, by adding thereafter the following:

"Section 17. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer or other disposition of the investments and moneys of the retirement system. ***The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities.*** [~~The board may invest in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders.~~] The board shall employ [~~an~~] experienced competent investment ***counselors*** [~~counselor~~] to advise it on all matters pertaining to investment except the board may employ qualified investment personnel to advise it on investment matters not to exceed twenty-five percent (25%) of the book value of the system's assets. ***Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system.*** The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment subject to the approval of the board of trustees. The board of trustees in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) ***By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and***

***(d)*** In accordance with the laws, administrative regulations and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) [~~Not more than twenty-five percent (25%) of any one (1) issue may be purchased as an investment and not more than seven percent (7%) of the invested funds of the system may be invested in the securities of any issuer except in the case of obligations of the United States government. No investment may be made in the obligation of any issuer which has been in default of any of its bonds or interest during a period of the last ten (10) years immediately preceding the purchase.~~

~~(5) (a) There shall be no limit on investments in bonds, notes, real estate mortgages, and other obligations of or guaranteed by the United States government, or those for which the credit of the United States government is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, or any other obligations or securities issued or generated by any federal government agency, presently or in the future establishment by an Act of Congress, and as amended or supplemented from time to time;~~

~~(b) Except as provided in subsection (a) of this section, no more than seventy-five percent (75%) of the assets of the system may be invested in obligations consisting of bonds, notes, debentures, equipment trust certificates, conditional sales agreements, or other fixed obligations in any form. Purchase of any of the above shall be limited to those which are the direct obligation or are secured by direct obligation, of a corporation organized under the laws of the United States, or any state in the United States, or District of Columbia or are secured by first mortgages in the case of equipment trust certificates and conditional sales agreements. Such bonds or other obligations must be rated at the time of purchase within the three (3) highest classifications established by one (1) or more major rating services, or if not rated, must be certified in writing by one (1) or more such services to be of investment quality equivalent to, or higher than, the quality of bonds rated in the third highest investment classification;~~

~~(c) No more than forty percent (40%) of the assets of the system may be invested in common or preferred stocks, issued or guaranteed by a corporation created or existing under the laws of the United States or any state thereof. No more than ten percent (10%) of the assets of the system may be invested in a stock index portfolio that is designed to replicate the movement of the Standard and Poor's composite index of five hundred (500) stocks;~~

~~(d) No more than ten percent (10%) of the assets of the system may be invested in real estate, real estate lease agreements, conventional first mortgages on real estate, or shares of beneficial interest in real estate investment trusts established under the laws of the United States or any state thereof;~~

~~(e) No more than ten percent (10%) of the assets of the system may be invested in any one (1) category of additional types of investment that are established by regulations by the board of trustees.~~

~~(6)~~] No investment or disbursement of funds shall be made unless authorized by the board of trustees, ***except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.***

Section 18. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the conference of actuaries in public practice or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system, the actuary shall make an actuarial investigation into the actuarial assumptions used, including but not limited to mortality, earnable interest and service and compensation of the members and beneficiaries of the retirement system, make a valuation of the assets and liabilities of the funds of the system and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such

investigations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(2) Actuarial factors in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees***, but the assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.***

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board."; and

on page 45, line 11, by changing "Section 17." to read "Section 19.".

Floor Amendment No. 3 to the Committee Substitute to **HB 653**, by Representative Worthington:

Amend printed copy of HCS to **HB 653** on page 45, line 10, by adding thereafter the following:

"Section 17. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer or other disposition of the investments and moneys of the retirement system. The board may invest in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. The board shall employ an experienced competent investment counselor to advise it on all matters pertaining to investment except the board may employ qualified investment personnel to advise it on investment matters not to exceed twenty-five percent (25%) of the book value of the system's assets. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment subject to the approval of the board of trustees. The board of trustees in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. ***Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.***

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) In accordance with the laws, administrative regulations and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) Not more than twenty-five percent (25%) of any one (1) issue may be purchased as an investment and not more than seven percent (7%) of the invested funds of the system may be invested in the securities of any issuer except in the case of obligations of the United States government. No investment may be made in the obligation of any issuer which has been in default of any of its bonds or interest during a period of the last ten (10) years immediately preceding the purchase.

(5) (a) There shall be no limit on investments in bonds, notes, real estate mortgages, and other obligations of or guaranteed by the United States government, or those for which the credit of the United States government is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, or any other obligations or securities issued or generated by any federal government agency, presently or in the future establishment by an Act of Congress, and as amended or supplemented from time to time;

(b) Except as provided in subsection (a) of this section, no more than seventy-five percent (75%) of the assets of the system may be invested in obligations consisting of bonds, notes, debentures, equipment trust certificates, conditional sales agreements, or other fixed obligations in any form. Purchase of any of the above shall be limited to those which are the direct obligation or are secured by direct obligation, of a corporation organized under the laws of the United States, or any state in the United States, or District of Columbia or are secured by first mortgages in the case of equipment trust certificates and conditional sales agreements. Such bonds or other obligations must be rated at the time of purchase within the three (3) highest classifications established by one (1) or more major rating services, or if not rated, must be certified in writing by one (1) or more such services to be of investment quality equivalent to, or higher than, the quality of bonds rated in the third highest investment classification;

(c) No more than forty percent (40%) of the assets of the system may be invested in common or preferred stocks, issued or guaranteed by a corporation created or existing under the laws of the United States or any state thereof. No more than ten percent (10%) of the assets of the system may be invested in a stock index portfolio that is designed to replicate the movement of the Standard and Poor's composite index of five hundred (500) stocks;

(d) No more than ten percent (10%) of the assets of the system may be invested in real estate, real estate lease agreements, conventional first mortgages on real estate, or shares of beneficial interest in real estate investment trusts established under the laws of the United States or any state thereof;

(e) No more than ten percent (10%) of the assets of the system may be invested in any one (1) category of additional types of investment that are established by regulations by the board of trustees.

(6) No investment or disbursement of funds shall be made unless authorized by the board of trustees."; and

on page 45, line 11, by changing "Section 17." to read "Section 18.".

Floor Amendment No. 3 to **SB 88**, by Representative K. Harper:

Amend printed copy of **SB 88** on page 7, line 16, by inserting the subsection "***(1)***" preceding the word "***When***".

And on page 7, between lines 21 and 22, by adding the following new subsection:

***"(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the provisions of a designation executed by a grantor under Section 7 of this Act on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a qualified patient.***

***(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member or employee who refuses to comply with the designation of a grantor executed under Section 7 of this Act."***

Floor Amendment No. 1 to **SB** 78, by Representative L. Clark:

Amend printed copy of **SB** 78 on page 2, line 1 after the word "***locations***" by adding the following: "***or a shortage of certified personnel for special instructional services***";

on page 2, line 21 after the word "***teacher***" by adding the following: "***or special instructional services***";

on page 5, line 3 after the word "***Kentucky***" by adding the following: "***or employed full time in a special instructional service position***";

on page 5, after line 23 by adding the following:

"***(24) "Teacher" means any person for whom certification is required as a basis of employment in an accredited school who is employed in a position of direct instruction of students or who is employed in a position providing special instructional services for students.***"

on page 5, line 24 by changing "***(24)***" to "***(25)***";

on page 6, line 7 by changing "***(25)***" to "***(26)***".

The Clerk announced the following meetings:

The Committee on Counties and Special Districts, 8:00 a.m., March 7, 1990.

The Committee on State Government, 9:00 a.m., March 9, 1990.

The Committee on Health and Welfare in a joint meeting with the Senate on Health and Welfare, today upon adjournment.

### Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 7, 1990.

On the roll call the vote was yeas 74—Adkins, Allen, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, Hatcher, Hourigan, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Nelson, Nett, Noe, Noland, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, Strong, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

## WEDNESDAY, MARCH 7, 1990

## FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 6, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **HB 59** with Senate Amendment, and **HB 443** with Senate Amendments.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 9, HB 34, HB 70, HB 81, HB 214, HB 223, HB 289, HB 294, HB 335, HB 347, HB 365, HB 386, HB 389, HB 398, HB 487, HB 88** and **HB 350** have been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:05 p.m.)

**HB 9, HB 34, HB 70, HB 81, HB 214, HB 223, HB 289, HB 294, HB 335, HB 347, HB 365, HB 386, HB 389, HB 398, HB 487, HB 88** and **HB 350** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 286, SB 287.**

Business Organizations and Professions: **SB 280.**

Cities: **SB 210, SB 340.**

Economic Development and Tourism: **SB 275.**

Education: **SJR 44.**

Health and Welfare: **SB 42, SB 265.**

Judiciary: **SB 180.**

Natural Resources and Environmental Protection: **SCR 97, SB 217, SB 271, SB 249, SB 311.**

### Report of Committees

The Committee on Rules reported **HB 390, HB 416, HB 524, HB 687, HB 558, HB 639, HB 695** and **HB 15** have been posted for passage in Orders of the Day, March 8, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, March 8, 1990: **SB 72, SB 143, SB 145, SB 146, SB 147.**

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 355.**

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 831, HJR 174, HCR 175.**

Education: **HB 814, HB 903.**

Cities: **HB 778, HB 842, SB 44, SB 102, SB 144, SB 181, SB 198, SB 211, SB 224, SB 289.**

## Report of Committees

The Committee on Counties and Special Districts reported **HB 327**, **HB 495**, **HB 515** with Committee Substitute attached thereto, **HB 611** with Committee Amendment attached thereto, **HB 632**, **HB 667** with Committee Substitute attached thereto, **HCR 163** and **SB 270** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 327**, AN ACT relating to the compensation of sheriffs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 64.092 is amended to read as follows:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate.

(2) Compensation shall not be provided for more than one (1) sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate and the utilization of additional personnel is approved by the chief justice, or his designee. ***If*** [~~In the event of~~] an emergency ***precludes*** [~~of such nature precluding~~] contacting the chief justice or his designee, the chief circuit judge, chief district judge, or judge of the Court of Appeals may authorize [~~such~~] assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) ***If*** [~~Where~~] a single sheriff or other law enforcement officer serves more than one (1) court or courtroom during a single day, he shall be paid as if he had served only one (1) courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the chief judge of the Circuit Court, if the service was to the Circuit Court, or by the chief judge of the District Court, if the service was to the District Court.

(6) Compensation shall be at the following rates:

(a) For the first ***hour*** [~~three (3) hours~~] of service in a single day, ten dollars ($10).

(b) For service beyond ***the first hour, the*** [~~three (3) hours, such~~] additional service shall be compensated at the ***rate of six dollars ($6) per hour*** [~~current federal minimum wage~~]. Compensation for ***the*** [~~such~~] service shall be pro-rated for the actual number of minutes service within a given hour.

(7) The sheriff shall receive five dollars ($5) from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175 and 24A.180 to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection ***shall be*** [~~are~~] authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation.

**HB 495**, AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section, ***but a county shall request hazardous duty coverage for its full-time paid firefighters; this requirement shall not apply to any political subdivision, other than a county, notwithstanding the definition of county contained in KRS 78.510(3).*** Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous

position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. ***The*** [~~Such~~] rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump sum payment in his own behalf. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

**HB 515,** AN ACT relating to volunteer fire departments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***"Volunteer fire department" means a fire department that has a membership consisting of less than fifty percent (50%) of its members being full-time paid firefighters and the remaining number being volunteer firefighters.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

***(1) All existing volunteer fire departments shall within one (1) year of the effective date of this Act, comply with the requirements established by the state fire marshal for recognition and certification. All newly formed volunteer fire departments shall be required to have achieved recognition and certification within one (1) year of application.***

***(2) The state fire marshal shall promulgate administrative regulations to develop a recognition and annual certification program for all volunteer fire departments. The administrative regulations shall establish criteria for the recognition and certification program that shall determine the following:***

***(a) Compliance with training requirements established by the Commission on Fire Protection Personnel Standards and Education pursuant to KRS Chapter 95A for officers and personnel of a volunteer fire department;***

***(b) Minimum equipment requirements for each volunteer fire department;***

*(c) Recordkeeping requirements for volunteer fire departments; and*

*(d) Participation in the fire incident reporting system.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) The state fire marshal shall recognize and certify all volunteer fire departments that comply with the provisions of Section 2 of this Act, and that are organized as either a city fire department pursuant to KRS Chapter 95, a county fire department pursuant to KRS Chapter 67, a fire protection district pursuant to KRS Chapter 75, or a nonprofit corporation pursuant to KRS Chapter 273, upon verification of how the department is organized.*

*(2) A volunteer fire department that does not meet the requirements for recognition established by the state fire marshal shall not be certified and shall be ineligible to provide workers compensation insurance, receive volunteer fire department aid, or participate in the Professional Firefighters Foundation Program.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) A volunteer fire department that has been recognized and certified by the state fire marshal shall have the following rights and responsibilities:*

*(a) Designation as the only fire department authorized to protect an identified geographic area and total responsibility for providing fire protection within that area;*

*(b) Authority to enter into written agreement with other fire departments that are domiciled within or without the State of Kentucky to provide reciprocal aid and assistance;*

*(c) Authority to immediately secure water for purposes of fighting a fire from any source, public or private, and the authority to compensate the source of the water at a later date that shall not exceed six (6) months from the date the water was procured;*

*(d) Authority to order the immediate evacuation of areas endangered by fire, a hazardous materials incident, or other impending disaster that constitutes a threat to life or property;*

*(e) Subject to the provisions of KRS Chapter 227, authority to be in charge of all fire ground operations at the scene of a fire or other emergency;*

*(f) Authority to participate in fund and aid programs for volunteer fire departments if the department meets the criteria of the programs; and*

*(g) Possess all rights identified in the Kentucky Revised Statutes for fire departments.*

*(2) The chief of a volunteer fire department that has been recognized and certified by the state fire marshal shall, subject to all state statutes and local ordinances if applicable, have the following rights and responsibilities:*

*(a) Control of all personnel and their actions while on duty, as well as control of all equipment of the department;*

*(b) Control of all administrative operations of the department and control of all operations at the scene of a fire, incident, or other emergency;*

*(c) Control of all persons and agencies at the scene of a fire; and*

*(d) Ensure that all members of the department comply with all provisions established by state statute or administrative regulation for the recognition and certification of the department.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*(1) All volunteer fire departments shall file an accurate map and description of the area of its boundaries with the county clerk. If the boundaries extend into two (2) or more counties, a map and description of the boundaries of the area protected by the volunteer fire department shall be filed with the county clerk in every county in which the district is located.*

*(2) Except for fire departments organized pursuant to KRS Chapters 95, 67, or 75, the boundaries between any two (2) fire departments may be changed by the two (2) departments entering into a written agreement establishing boundary changes and with the approval of fifty one percent (51%) of the property owners in the affected area.*

*(3) Except as provided in subsection (4) of this section, a volunteer fire department shall respond to all fires within its designated boundaries.*

*(4) Except for fire departments organized pursuant to KRS Chapters 95, 67, or 75, a volunteer fire department shall not respond to any fire on the property of any owner who has notified the department by a notarized letter, prior to the occurrence of a fire, not to respond to any fire, incident, or other emergency on his property, unless the fire or other emergency poses a threat to the life or property of others. A property owner that has notified a department in this manner shall be required to submit in writing the name of his insurance agent or insurance company to the volunteer fire department. A property owner that has complied with the provisions of this subsection shall not be liable for any fees or charges levied by the volunteer fire department.*

*(5) A volunteer fire department may respond to a fire or other incident or emergency within the boundaries of another department if requested to do so by the fire department serving the affected area.*

*(6) A volunteer fire department shall have access to property affected by a fire at the immediate time of the fire and for a reasonable period thereafter to conduct investigations or for other safety reasons.*

*(7) A volunteer fire department shall be liable for willful neglect of duty or action resulting in injury to persons or property when responding to a fire, incident, or other emergency for members and subscribers, as well as nonmembers and nonsubscribers.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*(1) A volunteer fire department that levies property taxes shall not collect charges for membership or subscriber fees for the same geographic area.*

*(2) A volunteer fire department that collects charges for membership or subscriber fees for combating fires, or responding to an incident or other emergency, on the property of members or subscribers shall limit its annual fee or charge for service to the following:*

*(a) Fifty dollars ($50.00) for residences, mobile homes, small buildings, equipment, vehicles, and small farms. The volunteer fire department shall, by written administrative action, define what constitutes small buildings and farms.*

*(b) The fee for all other buildings, commercial structures, and storage facilities for hazardous or combustible materials shall be established through a written agreement between the affected property owner and the volunteer fire department.*

*(3) Except as provided in subsection (4) of Section 5 of this Act, a volunteer fire department that responds to a fire, incident, or other emergency on the property of a nonmember or nonsubscriber may charge the following fees for services rendered:*

*(a) Five hundred dollars ($500.00) for residences, mobile homes, small buildings, equipment, vehicles, and grass or wood fires.*

*(b) A minimum of five hundred dollars ($500.00) for large buildings, commercial structures, storage facilities for hazardous materials. The department may levy an additional charge, not to exceed actual costs, to mitigate a problem or situation involved in the cleanup of hazardous materials.*

*(c) The volunteer fire department shall, by written administrative action, define what constitutes small and large buildings.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*(1) A property owner that is not a member or subscriber of the volunteer fire department that has experienced a fire, incident, or other emergency that the department has responded to shall be required to provide his insurance company with the billing statement from the volunteer fire department that indicates the charge for services rendered when making an insurance claim for loss of property.*

*(2) All insurance companies paying a claim pursuant to subsection (1) of this section shall make full payment of the stated charge for services in the following manner:*

*(a) The insurance company may make the check payable to both the affected property owner and the affected volunteer fire department; or*

*(b) The insurance company may make the check payable solely to the affected volunteer fire department.*

*(3) If an insurance company makes a claim check payable both to the property owner and the volunteer*

***fire department, the property owner shall make payment to the volunteer fire department within thirty (30) days of receipt of the check. If the claim check is not sufficient to cover the charge levied by the volunteer fire department, the property owner shall be responsible for payment of the balance to the volunteer fire department.***

***(4) A property owner that does not have fire insurance coverage shall be fully responsible for payment of all charges levied by a volunteer fire department for services rendered in response to a fire, incident, or other emergency within thirty (30) days of the date of response by the department. Payment to the volunteer fire department shall be in full, unless a written agreement has been reached between the department and the property owner to establish a payment schedule to satisfy all debts of the property owner.***

***(5) If payment for services rendered has not been received within sixty (60) days from the date of response, and if a payment schedule has not been established, a volunteer fire department may proceed in small claims court or other appropriate court of action to recover from the property owner all fees associated with the fire, including attorney fees and court costs. If court action fails to satisfy the indebtedness of the property owner, the volunteer fire department may attach a lien on the affected property until the time the indebtedness is satisfied.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 20 IS CREATED TO READ AS FOLLOWS:

***All insurance companies shall be subject to the provisions of Section 7 of this Act.***

Section 9. KRS 342.650 is amended to read as follows:

The following employees ***shall be*** [~~are~~] exempt from the coverage of this chapter:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two (2) employes each regularly employed forty (40) or more hours a week in such employment.

(2) Any person employed, for not exceeding twenty (20) consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or if the employer has no other employees subject to this chapter, in or about the premises where ***the*** [~~such~~] employer carries on his trade, business or profession.

(3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States, except those persons covered under Title IV, Public Law 91-173, 91st Congress, commonly referred to as the Black Lung Benefits of the Federal Coal Mine Health and Safety Act of 1969, or as amended.

(5) Any person employed in agriculture.

(6) Any person who would otherwise be covered but who elects not to be covered in accordance with the [~~rules and~~] regulations promulgated by the board.

(7) Any person participating as a driver or passenger in a voluntary vanpool or carpool program while that person is on the way to or from his place of employment. For the purposes of this subsection, carpool or vanpool means any method by which two (2) or more employees are transported from their residences to their places of employment.

***(8) Any person employed or any member of a volunteer fire department that has failed to be recognized and certified by the state fire marshal pursuant to subsection (2) of Section 3 of this Act.***

The Committee Substitute to **HB 515** is as follows:

**HB 515,** AN ACT relating to volunteer fire departments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***"Volunteer fire department" means a fire department recognized by the state fire marshal.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) All existing volunteer fire departments shall within one (1) year of the effective date of this Act, comply with the requirements established by the state fire marshal for recognition and certification. All newly formed volunteer fire departments shall be required to have achieved recognition and certification within one (1) year of application.*

*(2) The state fire marshal shall promulgate administrative regulations to develop a recognition and annual certification program for all volunteer fire departments. The administrative regulations shall establish criteria for the recognition and certification program that shall determine the following:*

*(a) Compliance with training requirements established by the Commission on Fire Protection Personnel Standards and Education pursuant to KRS Chapter 95A for officers and personnel of a volunteer fire department;*

*(b) Minimum equipment requirements for each volunteer fire department;*

*(c) Recordkeeping requirements for volunteer fire departments; and*

*(d) Participation in the fire incident reporting system.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) The state fire marshal shall recognize and certify all volunteer fire departments that comply with the provisions of Section 2 of this Act, and that are organized as either a city fire department pursuant to KRS Chapter 95, a county fire department pursuant to KRS Chapter 67, a fire protection district pursuant to KRS Chapter 75, or a nonprofit corporation pursuant to KRS Chapter 273, upon verification of how the department is organized.*

*(2) A volunteer fire department that does not meet the requirements for recognition established by the state fire marshal shall not be certified and shall be ineligible to provide workers compensation insurance, receive volunteer fire department aid, or participate in the Professional Firefighters Foundation Program.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) A volunteer fire department that has been recognized and certified by the state fire marshal shall have the following rights and responsibilities:*

*(a) Designation as the only fire department authorized to protect an identified geographic area and total responsibility for providing fire protection within that area;*

*(b) Authority to enter into written agreement with other fire departments that are domiciled within or without the State of Kentucky to provide reciprocal aid and assistance;*

*(c) Authority to immediately secure water for purposes of fighting a fire from any source, public or private, and the authority to compensate the source of the water at a later date that shall not exceed six (6) months from the date the water was procured;*

*(d) Authority to order the immediate evacuation of areas endangered by fire, a hazardous materials incident, or other impending disaster that constitutes a threat to life or property;*

*(e) Subject to the provisions of KRS Chapter 227, authority to be in charge of all fire ground operations at the scene of a fire or other emergency;*

*(f) Authority to participate in fund and aid programs for volunteer fire departments if the department meets the criteria of the programs; and*

*(g) Possess all rights identified in the Kentucky Revised Statutes for fire departments.*

*(2) The chief of a volunteer fire department that has been recognized and certified by the state fire marshal shall, subject to all state statutes and local ordinances if applicable, have the following rights and responsibilities:*

*(a) Control of all personnel and their actions while on duty, as well as control of all equipment of the department;*

*(b) Control of all administrative operations of the department and control of all operations at the scene of a fire, incident, or other emergency;*

*(c) Control of all persons and agencies at the scene of a fire; and*

*(d) Ensure that all members of the department comply with all provisions established by state statute or administrative regulation for the recognition and certification of the department.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) All volunteer fire departments shall file an accurate map and description of the area of its boundaries with the county clerk. If the boundaries extend into two (2) or more counties, a map and description of the boundaries of the area protected by the volunteer fire department shall be filed with the county clerk in every county in which the district is located.*

*(2) Except for fire departments organized pursuant to KRS Chapters 95, 67, or 75, the boundaries between any two (2) fire departments may be changed by the two (2) departments entering into a written agreement establishing boundary changes and with the approval of fifty one percent (51%) of the property owners in the affected area.*

*(3) Except as provided in subsection (4) of this section, a volunteer fire department shall respond to all fires within its designated boundaries.*

*(4) Except for fire departments organized pursuant to KRS Chapters 95, 67, or 75, a volunteer fire department shall not respond to any fire on the property of any owner who has notified the department by a notarized letter, prior to the occurrence of a fire, not to respond to any fire, incident, or other emergency on his property, unless the fire or other emergency poses a threat to the life or property of others. A property owner who has notified a department in this manner shall be required to submit in writing the name of his insurance agent or insurance company to the volunteer fire department. A property owner who has complied with the provisions of this subsection shall not be liable for any fees or charges levied by the volunteer fire department.*

*(5) A volunteer fire department may respond to a fire or other incident or emergency within the boundaries of another department if requested to do so by the fire department serving the affected area.*

*(6) A volunteer fire department shall have access to property affected by a fire at the immediate time of the fire and for a reasonable period thereafter to conduct investigations or for other safety reasons.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) A volunteer fire department that levies property taxes shall not collect charges for membership or subscriber fees for the same geographic area.*

*(2) A volunteer fire department that collects charges for membership or subscriber fees for combating fires, or responding to an incident or other emergency, on the property of members or subscribers shall limit its annual fee or charge for service to the following:*

*(a) Fifty dollars ($50.00) for residences, mobile homes, small buildings, equipment, vehicles, and small farms. The volunteer fire department shall, by written administrative action, define what constitutes small buildings and farms.*

*(b) The fee for all other buildings, commercial structures, and storage facilities for hazardous or combustible materials shall be established through a written agreement between the affected property owner and the volunteer fire department.*

*(3) Except as provided in subsection (4) of Section 5 of this Act, a volunteer fire department that responds to a fire, incident, or other emergency on the property of a nonmember or nonsubscriber may charge the following fees for services rendered:*

*(a) Five hundred dollars ($500.00) for residences, mobile homes, small buildings, equipment, vehicles, and grass or wood fires.*

*(b) No less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000) for large buildings, commercial structures, storage facilities for hazardous materials.*

*(c) The volunteer fire department shall, by written administrative action, define what constitutes small and large buildings.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

*(1) A property owner who is not a member or subscriber of the volunteer fire department who has experienced a fire, incident, or other emergency that the department has responded to shall be required to provide his insurance company with the billing statement from the volunteer fire department that indicates the charge for services rendered when making an insurance claim for loss of property.*

***(2) All insurance companies paying a claim pursuant to subsection (1) of this section shall make full payment of the stated charge for services in the following manner:***

***(a) The insurance company may make the check or draft payable to both the affected property owner and the affected volunteer fire department; or***

***(b) The insurance company may make the check or draft payable solely to the affected volunteer fire department.***

***(3) If an insurance company makes a claim check or draft payable both to the property owner and the volunteer fire department, the property owner shall make payment to the volunteer fire department within thirty (30) days of receipt of the check or draft. If the claim check or draft is not sufficient to cover the charge levied by the volunteer fire department, the property owner shall be responsible for payment of the balance to the volunteer fire department.***

***(4) A property owner who does not have fire insurance coverage shall be fully responsible for payment of all charges levied by a volunteer fire department for services rendered in response to a fire, incident, or other emergency within thirty (30) days of the date of response by the department. Payment to the volunteer fire department shall be in full, unless a written agreement has been reached between the department and the property owner to establish a payment schedule to satisfy all debts of the property owner.***

***(5) If payment for services rendered has not been received within sixty (60) days from the date of response, and if a payment schedule has not been established, a volunteer fire department may proceed in small claims court or other appropriate court of action to recover from the property owner all fees associated with the fire, including attorney fees and court costs. If the court finds in favor of the volunteer fire department and the property owner fails to pay on the judgment, the volunteer fire department may attach a lien on the affected property until the time the indebtedness is satisfied.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

***Nothing in this Act shall be construed to conflict with or supersede the authority of the Natural Resources and Environmental Protection Cabinet, pursuant to the provisions of KRS Chapter 224, over management of hazardous wastes, nor the authority of the Division of Disaster and Emergency Services, pursuant to KRS Chapter 39, over response to disasters and emergencies.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 20 IS CREATED TO READ AS FOLLOWS:

***All insurance companies shall be subject to the provisions of Section 7 of this Act.***

Section 10. KRS 342.650 is amended to read as follows:

The following employees ***shall be*** [~~are~~] exempt from the coverage of this chapter:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two (2) employes each regularly employed forty (40) or more hours a week in such employment.

(2) Any person employed, for not exceeding twenty (20) consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or if the employer has no other employees subject to this chapter, in or about the premises where ***the*** [~~such~~] employer carries on his trade, business or profession.

(3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States, except those persons covered under Title IV, Public Law 91-173, 91st Congress, commonly referred to as the Black Lung Benefits of the Federal Coal Mine Health and Safety Act of 1969, or as amended.

(5) Any person employed in agriculture.

(6) Any person who would otherwise be covered but who elects not to be covered in accordance with the [~~rules and~~] regulations promulgated by the board.

(7) Any person participating as a driver or passenger in a voluntary vanpool or carpool program while that person is on the way to or from his place of employment. For the purposes of this subsection, carpool or vanpool means any method by which two (2) or more employees are transported from their residences to their places of employment.

***(8) Any person employed or any member of a volunteer fire department that has failed to be recognized and certified by the state fire marshal pursuant to subsection (2) of Section 3 of this Act.***

Section 11. KRS 75.050 is amended to read as follows:

Any fire protection district created as provided in KRS 75.010, and any fire protection district or fire prevention district hereafter created pursuant to present or future law, and any municipal corporation, volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, ***which has been recognized and certified by the state fire marshal pursuant to Section 4 of this Act,*** may, through its governing body, make and enter into contracts with any other fire protection district, fire prevention district, municipal corporation, volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, either within the same county or within an adjoining county in an area adjacent to the boundary line between the counties, for the furnishing or receiving of fire protection services for all property within the confines of the area included in and covered by the contract or contracts, where such fire protection is not otherwise provided by some division of government or governmental agency. Similar contracts may be made and entered into between any county and an adjoining county, or between any county and any one (1) or more municipalities or districts, departments or units of the character above mentioned, located either within the county or within an adjoining county in an area adjacent to the boundary line between the counties. The personnel and equipment of a contracting party, in going to and returning from a fire, or in answering and responding to a false fire alarm or call, and while endeavoring to extinguish fires within the area covered by the contract, shall be deemed and hereby is declared to be engaged in the exercise of a governmental function.

Section 12. KRS 17.250 is amended to read as follows:

(1) There is created and established within the Department of Housing, Buildings and Construction a volunteer fire department aid fund consisting of insurance premium surcharge proceeds as provided in subsection (2) of KRS 136.392. All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified herein and in KRS 61.316.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the state fire marshal shall allot on an annual basis an equal share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized ***and certified by the state fire marshal pursuant to Section 4 of this Act and recognized*** by the Department of Housing, Buildings and Construction as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. He shall prescribe regulations and standards for determining the amounts to be granted. Such standards shall be based on the number of both paid fire fighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the volunteer fire department aid fund that shall be allocated each fiscal year of the biennium to the fire fighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for fire fighters. If any moneys in the training center fund remain uncommitted, unobligated or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Conmmission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding of fire fighters training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the volunteer fire department aid fund during any fiscal year.

(8) The state fire marshal shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material, [~~(~~]as defined in any state or federal statute or regulation,[~~)~~] was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the state fire marshal for reimbursement in a manner approved by the state fire marshal and the loss and the circumstances thereof have been verified by the state fire marshal;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The state fire marshal has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The state fire marshal has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer fire fighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the state fire marshal that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) In the event that a volunteer fire department has met all of the requirements of subsection (9) of this section, the state fire marshal may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The state fire marshal shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

**HB 611**, AN ACT relating to sheriffs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 134.290 is amended to read as follows:

(1) In counties ***of less than seventy-five thousand (75,000) population or*** where the state taxes charged to the sheriff for the year are less than ***three hundred fifty thousand dollars ($350,000)*** [~~seventy-five thousand dollars ($75,000)~~], he shall be allowed by the Revenue Cabinet, for collecting ***the*** [~~such~~] taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and ***five*** [~~four~~] and one-quarter percent ***(5.25%)*** [~~(4.25%)~~] upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(2) In counties ***of less than seventy-five thousand (75,000) population or*** where county taxes and special

district taxes, excluding school taxes, charged to the sheriff for the year are less than ***three hundred thousand dollars ($300,000)*** [~~one hundred fifty thousand dollars ($150,000)~~], he shall be allowed by the county treasurer for collecting ***the*** [~~such~~] taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and ***five*** [~~four~~] and one-quarter percent ***(5.25%)*** [~~(4.25%)~~] upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter per cent (4.25%) upon the residue.

The Committee Amendment No. 1 to **HB 611** is as follows:

Amend printed copy of **HB 611** on page 1, line 2, by deleting out "***of less than seventy-five thousand (75,000) population or***"; and

on page 1, line 14, by deleting out "***of less than seventy-five thousand (75,000) population or***".

**HB 632,** AN ACT relating to coroners.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, ***the*** [~~such~~] monthly compensation [~~as~~] the fiscal court of each county shall fix, subject to the following minimums:

| County Population | Monthly Minimum Compensation |
|---|---|
| (a) 10,000 or less | $ 200 |
| (b) 10,001 to 20,000 | 300 |
| (c) 20,001 to 40,000 | 350 |
| (d) 40,001 to 60,000 | 400 |
| (e) 60,001 to 100,000 | 450 |
| (f) 100,001 to 150,000 | 800 |
| (g) 150,001 or more | 1,000 |

[~~Provided, however, that~~] Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice Cabinet, and the medical examiner program, Justice Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of ***the*** [~~such~~] training:

| County Population | Monthly Minimum Compensation |
|---|---|
| (a) 10,000 or less | $ 300 |
| (b) 10,001 to 20,000 | 400 |
| (c) 20,001 to 40,000 | 550 |
| (d) 40,001 to 60,000 | 650 |
| (e) 60,001 to 100,000 | 750 |
| (f) 100,001 to 150,000 | 1000 |
| (g) 150,001 or more | 1200 |

(2) Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban-county treasury, whichever is appropriate, ***the*** [~~su–~~ monthly compensation [~~as~~] the fiscal court of

| County Population | Monthly Minimum Compensation |
|---|---|
| (a) 10,000 or less | $100 |
| (b) 10,001 to 20,000 | 150 |
| (c) 20,001 to 40,000 | 175 |
| (d) 40,001 to 60,000 | 200 |
| (e) 60,001 to 100,000 | 300 |
| (f) 100,001 to 150,000 | 800 |
| (g) 150,001 or more | 1000 |

(3) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.

(4) ***If*** [~~In the event~~] a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.

(5) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census***, but every coroner may appoint two (2) deputy coroners, regardless of population***.

**HB 667,** AN ACT relating to corrections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 441.055 is amended to read as follows:

(1) The ***Governor shall appoint, by January 1, 1991 a continuing jail standards revision committee of six (6) members composed of a representative from the Corrections Cabinet, a county jailer selected from a list of three (3) provided by the Kentucky Jailers Association; a magistrate or commissioner serving on a fiscal court selected from a list of three (3) provided by the Kentucky Magistrates/Commissioners Association; a county judge/executive selected from a list of three (3) provided by the Kentucky County Judge/Executives Association; a member of the House of Representatives; and a member of the Senate. Appointment shall be for two (2) years, members may be reappointed, and the Governor shall fill all vacancies on the committee in the same manner as he makes original appointments.***

***(2) The committee shall select a chairman from its members.***

***(3) The committee shall be attached to the Corrections Cabinet for purposes of administrative support, but the committee members shall be reimbursed for their expenses by the organization which they represent pursuant to law or regulation, if any, applicable to their position.***

***(4) The cabinet shall adopt and promulgate, pursuant to KRS Chapter 13A, regulations approved by the committee establishing minimum standards for jails. No regulation shall be adopted or promulgated which is more stringent then standards mandated by the federal government. The*** [~~cabinet shall:~~

~~(a) By January 1, 1983, adopt the recommendations of the jail standards commission created pursuant to executive order number 81-1026 and promulgate regulations pursuant to KRS Chapter 13 establishing minimum standards for jails. Such~~] standards shall include, but not be limited to, rules governing the following areas:

***(a)***[~~1.~~] Health and safety conditions;

***(b)***[~~2.~~] Fire safety;

***(c)***[~~3.~~] Jail operations, recordkeeping and administration;

***(d)***[~~4.~~] Curriculum of basic and continuing annual training for jailers and jail personnel;

***(e)***[~~5.~~] Custody, care and treatment of prisoners;

***(f)***[~~6.~~] Medical care; and

***(g)***[~~7.~~] Jail equipment, renovation and construction.

[~~(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary.~~]

***(5)***[~~(c)~~] ***The cabinet shall*** provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

***(6)***[~~(2)~~] The cabinet may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 2. KRS 441.064 is amended to read as follows:

(1) The cabinet shall employ such jail consultants, inspectors and other employees as are necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(2) The cabinet shall inspect each jail biannually and may inspect jails more frequently.

(3) The cabinet shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the cabinet deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) ***Following an inspection of a jail, the cabinet shall notify the jailer and the fiscal court by certified mail of any deficiencies which are discovered and documented. If the deficiencies are health or safety related, the notification shall be sent within ten (10) working days, excluding weekends and holidays.*** The cabinet shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

Section 3. KRS 441.075 is amended to read as follows:

(1) Whenever the cabinet finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the secretary of the cabinet shall ***recommend***[~~order~~] that the violation be corrected immediately.

(2) [~~In order to enforce an order made pursuant to subsection (1) of this section,~~] The secretary may:

(a) ***Recommend that*** [~~Order~~] the jail or portions thereof to be vacated and closed until the violation is eliminated.

(b) ***Recommend that*** [~~Order~~] the jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) ***Recommend that*** [~~Order~~] the state contribution made pursuant to KRS 441.206 to be used, in whole or in part, to contract with another county for the incarceration of prisoners.

(3) ***The fiscal court shall have the sole authority to close its jail*** [~~An order issued under this section shall be in writing, incorporating the findings of the cabinet and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of said notification, request in writing a public hearing before the secretary of the cabinet or his designee on the matters covered by said order. Upon the hearing, the secretary of the cabinet or his designee may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The secretary of the cabinet or his designee may issue, modify or repeal the order at the conclusion of the hearing~~].

Section 4. KRS 441.206 is amended to read as follows:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the State Treasury in an amount equal to that paid to the county pursuant to this section in fiscal year 1983-84. Any additional moneys appropriated for county jails shall be allocated on the basis of a formula comprised of the following factors:

(a) Sixty percent (60%) of the allocation shall be based on the amount of the 1983-84 funding formula each county received;

(b) Ten percent (10%) of the allocation shall be based on each county's comparative ranking of median household income in inverse order, as determined by the 1980 federal census of population; and

(c) Thirty percent (30%) of the allocation shall be based on the proportion of each county's age at risk population (18-34) to the state total, as determined by the 1980 federal census of population.

(2) ***(a)*** Payments of the state contribution for jail operating expenses shall be made monthly by the corrections cabinet to the county treasurer.

***(b) If a county's jail is closed and the county contracts with another county for the incarceration of prisoners, the state shall reimburse the sending county the actual per diem amount paid the receiving county for housing sentenced misdemeanor prisoners, but no more than the fee set in KRS 431.215(4), and any medical costs. No county receiving any prisoner from another county for incarceration under a contractual agreement shall charge an amount in excess of the fee specified in KRS 431.215(4) and any medical costs. The state shall also reimburse the sending county a one (1) time transportation fee of twenty-five dollars ($25.00) for every arrest if the inmate is transported to a jail in another county. These costs shall be deducted from the county's entitlement pursuant to subsection (1) of this section*** [~~The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by KRS 441.025, shall not affect the state contribution provided for in subsection (1) of this section~~].

(3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city or another county for the incarceration of prisoners and any interest earned on such funds shall be expended on the incarceration of prisoners, as provided in KRS 441.025. Any funds paid under subsection (1) of this section and any interest earned on such funds shall be expended on the incarceration of prisoners, in accordance with regulations promulgated pursuant to KRS 441.055, within twelve (12) months of the close of the fiscal year in which such funds were received. Any funds received by a county under subsection (1) of this section that are not expended for this purpose shall be returned to the State Treasury.

(4) In no event shall a county receive less than ***fifty thousand dollars ($50,000)*** [~~twenty-four thousand dollars ($24,000)~~] pursuant to this section from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law.

Section 5. KRS 71.060 is amended to read as follows:

(1) The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer.

(2) The jailer shall be responsible for the appointment and removal of jail personnel provided ***and the jailer may dismiss his deputies at any time without cause.***

***(3)*** [~~, however, that~~] The number of jail personnel shall be set by the fiscal court in the jail budget. The fiscal court shall establish education and training requirements as permitted by regulations adopted pursuant to KRS 441.055.

***(4) The fiscal court shall be liable for deficiencies in jail equipment, buildings and curtilage only after notification in writing by the jailer or a Corrections Cabinet inspector, and the fiscal court shall not be liable for negligence of duty or wrongful acts of the jailer or jail employees.***

Section 6. KRS 441.045 is amended to read as follows:

(1) The county governing body shall prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.

(2) Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

(3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental and psychological care for indigent prisoners in the county jail shall be paid from the county jail budget.

(4) The cost of providing necessary medical, dental or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.

(5) The cost of providing necessary medical, dental or psychological care[~~, beyond routine care and diagnostic services,~~] for prisoners held pursuant to a contractual agreement with the state shall be paid [~~as provided~~] by [~~contract between~~] the state [~~and county~~]. The costs of necessary medical, dental or psychological care[~~, beyond routine care and diagnostic services,~~] of prisoners held in the county jail for which the county receives a per diem payment shall be paid by the state.

(6) When the cost of necessary medical, dental or psychological care for a prisoner exceeds two thousand dollars ($2,000), as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky medical assistance program, the state shall reimburse the county for that portion of the costs that exceed two thousand dollars ($2,000). The reimbursement shall be subject to the following terms and conditions:

(a) The care is necessary as defined in subsection (9) of this section;

(b) The prisoner is indigent as defined in subsection (7) of this section, or is uninsured; and

(c) No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky medical assistance program, except as provided in subsection (10) of this section.

(7) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120. Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.

(8) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

(9) For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner. The physician attending the prisoner shall certify, under oath, that the care was necessary. ***Elective care which can be postponed without hazard to the life or health of the prisoner shall be paid for by the inmate requesting the service.***

(10) Any money appropriated for a given fiscal year to fund the state's obligation under subsection (6) of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection (6) of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.

Section 7. KRS 441.047 is amended to read as follows:

(1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar evaluation, treatment or services, it shall be the responsibility of the Commonwealth to provide such evaluation, treatment, or services at the expense of the Commonwealth at the nearest state operated or state supported facility suitable for the provision of the required evaluation, treatment, or services at no cost to the county.

(2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar evaluation in connection with the criminal proceedings in which he is a defendant it shall be the responsibility of the Commonwealth to provide the evaluation at the nearest state operated or state supported facility suitable for the provision of the required evaluation at no cost to the county.

(3) In the event that no suitable state operated or state supported facility is located within a reasonable distance, then the evaluation may be made at a suitable local facility or at the jail. In such instances a request must first be made to the Cabinet for Human Resources to provide the evaluation, treatment or service unless the situation is an emergency requiring immediate attention. If the cabinet cannot provide the service or if the situation is an emergency, then local resources may be utilized.

(4) In the event that local resources are utilized in an emergency situation, or when the Cabinet for Human Resources is unable to provide the evaluation, treatment, or service, then the reasonable cost of providing such service, treatment, or evaluation shall be paid from the State Treasury [~~in the same manner as other medical expenses of indigent prisoners confined in the county jail~~].

(5) The Cabinet for Human Resources shall administer the provisions of this section and shall issue such administrative regulations as necessary to carry out the provisions of this section.

Section 8. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law .................... ***$57.00*** [~~$42.00~~]

(b) For an offense for which prepayment is not permitted or has not been made ...... ***$62.00*** [~~$47.00~~]

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation ............................................$ .50

(b) Preparing a certification ............................................ 1.00

(c) Preparing a copy of a document (per page) .................................25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to a drivers' improvement program as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ***ten dollars ($10.00)*** [~~five dollars ($5.00)~~] from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the administrative office of the courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ***twenty dollars ($20.00)*** [~~ten dollars ($10.00)~~] from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky local correctional facilities construction authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the administrative office of the courts the amounts paid to the sheriff.

Section 9. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010 shall be sentenced to pay a service fee of one hundred fifty dollars ($150), which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, and treatment and education programs authorized by this chapter. ***Fifty dollars ($50.00) of the fee shall be paid to the county in which it is collected for the purpose of incarcerating prisoners pursuant to KRS 441.025.***

Section 10. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the State Treasury a fee per day beginning on the ***date of conviction, or upon the date of entry of a guilty plea*** [~~fifth day following the day on which judgment was rendered~~] and ending the day that the defendant is delivered to the penitentiary. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

***(3) When the judgment imposes a sentence of death, the defendant shall be delivered to the penitentiary within ten (10) days after final sentencing.***

***(4) A county may contract with the Corrections Cabinet for the incarceration of prisoners who have been sentenced to serve a term in the penitentiary. The county shall receive a minimum fee of twenty-two dollars ($22.00) per day for each prisoner. If the actual costs of housing inmates exceed these prescribed fees, state reimbursement shall be based on the actual cost of housing at the jail, using a formula approved by the Kentucky Jailers' Association and the Corrections Cabinet.***

Section 11. KRS 441.610 is amended to read as follows:

(1) KRS 441.625 to 441.695 is intended solely to provide an additional and alternative method of constructing, reconstructing, improving, or repairing and financing jails and appurtenant facilities for any local government in this state to the end that such projects expedite the provision of safe and proper facilities by a local government for the incarceration of prisoners as defined by KRS 441.005. Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting a local government from providing for the construction, reconstruction, improvement or repair and financing of a jail and appurtenant facilities as may be otherwise provided by law.

(2) Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting two (2) or more local governments from entering into a cooperative agreement for the purpose of participating with the authority in providing for the construction, reconstruction, improvement or repair and financing of a jail and appurtenant facilities for the use and benefit of all local governments agreeing to such cooperative undertaking***, but the authority shall determine the number and location of regional jails and regional detention centers, as authorized by KRS 441.625***.

(3) Subsection (2) of this section is intended solely as an alternative method to KRS 65.210 to 65.300.

Section 12. KRS 441.625 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) ***To determine the number and location of regional jails and regional juvenile detention centers, in order to prevent duplication of effort unnecessary costs;***

***(2)*** To construct, reconstruct, improve or repair any jail and appurtenant facilities in any local government in this state, as may be determined by the authority and provided for in an agreement or agreements;

***(3)***[~~(2)~~] To acquire and to convey real estate and any improvements and buildings and facilities located thereon, for which a project is undertaken, and in such manner and under such terms as may be provided by agreement;

***(4)***[~~(3)~~] To issue revenue bonds, and revenue bond anticipation notes of the authority payable solely from the revenues, rentals, and other funds pledged for their payment, for the purpose of paying any part of the cost of any one (1) or more projects, and to refund any of its bonds;

***(5)***[~~(4)~~] To combine for financing purpose any two (2) or more projects;

***(6)***[~~(5)~~] To lease as lessor any project to any local government as lessee, pursuant to the terms and provisions of a lease;

***(7)***[~~(6)~~] To employ consulting engineers, attorneys, accountants, construction and financial experts, managers, and other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

***(8)***[~~(7)~~] To make and enter into such contracts and agreements with other parties as may be necessary and incidental to the performance of its duties and execution of its powers under KRS 441.625 to 441.695;

***(9)***[~~(8)~~] To establish and enforce rules, regulations, and specifications in respect to any project undertaken by the authority, except during any period when such powers are assigned to a lessee pursuant to a lease agreement, provided that such rules, regulations and specifications shall be consistent with state laws and regulations pertaining to jails;

***(10)***[~~(9)~~] To receive, accept and expend funds or other contributions from any source, both public and private, for or in aid of any project undertaken by the authority;

***(11)***[~~(10)~~] To create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the authority;

***(12)***[~~(11)~~] To make matching fund grants not exceeding fifty thousand dollars ($50,000) to local governments from funds determined by the authority to be available to it for such purposes, upon such terms and according to such criteria as the authority shall in its discretion determine; and

***(13)***[~~(12)~~] To do all things and perform all acts desirable, necessary and proper to carry out and implement the powers expressly granted to the authority by KRS 441.625 to KRS 441.695***, to include recommending the promulgation of regulations and enactment of legislation***.

Section 13. KRS 441.615 is amended to read as follows:

(1) There is created and established within the Finance and Administration Cabinet a Kentucky Local Correctional Facilities Construction Authority, composed of ten (10) members who shall be:

(a) The secretary of the Finance and Administration Cabinet, or his designee;

(b) The secretary of the Corrections Cabinet, or his designee;

(c) The ***designee*** [~~president~~] of the Kentucky Jailers Association[~~, or his designee~~];

(d) The ***designee*** [~~president~~] of the Kentucky County Judges/Executive Association[~~, or his designee~~];

(e) The ***designee*** [~~president~~] of the Kentucky Association of Counties[~~, or his designee~~];

(f) The ***designee*** [~~president~~] of the Kentucky Magistrates and Commissioners Association[~~, or his designee~~];

(g) Two (2) citizen members appointed by the Governor; and

(h) Two (2) members of the General Assembly appointed by the Governor.

(2) The ex officio members shall serve for the term of their respective office. The legislative members of the authority shall serve at the pleasure of the Governor.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of four (4) years; however, in making initial appointments, the governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The ten (10) members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) [~~The chairman of the authority shall be the secretary of finance.~~] The members of the authority shall elect a ***chairman,*** vice-chairman and secretary from their membership.

(8) The secretary of Finance ***and Administration Cabinet*** shall designate an employee of his cabinet to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, the premium therefor to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection. The Finance and Administration Cabinet is directed and authorized to provide such funds, staff assistants, facilities and materials as may be required by the authority in the conduct of its duties and functions. The secretary of Finance ***and Administration Cabinet*** may require the Corrections Cabinet to share in the expenses incurred by the Finance and Administration Cabinet in maintaining and operating offices of the authority.

Section 14. KRS 202A.041 is amended to read as follows:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family or others if not restrained shall detain that person without a warrant. The peace officer shall, if no other party can be found, swear out a warrant and take the arrested

person without unnecessary delay before a judge. Only in exceptional cases should the delay exceed twelve (12) hours. The judge shall release the individual if no warrant has been taken out. The judge shall, unless either the court or one (1) of the parties objects, implement the procedures as provided in KRS 202A.028 and order the person to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as provided in KRS 202A.028 shall be carried out. Otherwise, the court shall order the person arrested to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom shall be a physician. The qualified mental health professionals shall certify to the court, within twenty-four (24) hours of the examination, their findings and opinions as to whether the person should be involuntarily hospitalized.

(2) If the criteria for involuntary hospitalization are certified by two (2) qualified mental health professionals, the court shall set a preliminary hearing within six (6) days from the date of arrest (excluding weekends and holidays) to determine if there is probable cause to believe the person should be involuntarily hospitalized.

(3) Prior to the preliminary hearing, the court shall notify the respondent, his legal guardian, if any and if known, and his spouse, parents, or nearest known relative or friend concerning the involuntary hospitalization proceedings and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent.

(4) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the person should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of the arrest to determine if the person should be involuntarily hospitalized for a period of sixty (60) days.

(5) Prior to the final hearing, the county attorney shall file in the record and serve a copy thereof upon the respondent, a statement setting forth the alleged factual reasons or basis upon which the Commonwealth intends to rely in seeking the involuntary hospitalization of the respondent. The required statement shall be served upon the respondent at the earliest practical time, in any event, sufficiently in advance of the final hearing to permit preparation for the hearing by respondent.

(6) If upon completion of the final hearing, the court finds the person should be involuntarily hospitalized, the court shall order the person hospitalized in a hospital where treatment is available for a period not to exceed sixty (60) consecutive days from the date of the court order.

***(7) No person, including a peace office, shall place criminal charges against a person who is mentally ill and in need of hospitalization pursuant to KRS Chapter 202A solely or primarily for the purpose of placing that person in jail rather than in a mental health facility, particularly because it may be more convenient to jail the person rather than place him in a proper facility.***

Section 15. KRS 441.630 is amended to read as follows:

If the authority deems it suitable, feasible, necessary or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of such facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated, provided that the authority's contribution from its funds (excluding rentals received under leases made by the authority and any contribution, grant, or gift made to the authority by a local government, person, or entity other than the state, for the use and benefit of such project) shall not exceed ninety percent (90%) of such cost;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and such other steps as may be necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between

the authority and any local government. ***The permissive nature of this section notwithstanding, no county benefiting from an agreement reached pursuant to this section shall incarcerate sentenced federal prisoners in lieu of sentenced state prisoners***;

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser thereof, the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth therein and in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute such lease and file the original or a signed counterpart thereof in the office of the authority, and the secretary of state of the Commonwealth;

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, such funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of such project or projects; and

(9) Agree to establish guidelines for the construction, reconstruction, improvement or repair of projects determined by the authority to qualify for grants from the authority.

The Committee Substitute to **HB 667** is as follows:

**HB 667**, AN ACT relating to corrections.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 441.055 is amended to read as follows:

(1) The ***Governor shall appoint, by January 1, 1991 a continuing jail standards revision committee of six (6) members composed of a representative from the Corrections Cabinet; a county jailer selected from a list of three (3) provided by the Kentucky Jailers Association; a magistrate or commissioner serving on a fiscal court selected from a list of three (3) provided by the Kentucky Magistrates/Commissioners Association; a county judge/executive selected from a list of three (3) provided by the Kentucky County Judge/Executives Association; a member of the House of Representatives; and a member of the Senate. Appointment shall be for two (2) years, members may be reappointed, and the Governor shall fill all vacancies on the committee in the same manner as he makes original appointments.***

***(2) The committee shall select a chairman from its members.***

***(3) The committee shall be attached to the Corrections Cabinet for purposes of administrative support, but the committee members shall be reimbursed for their expenses by the organization which they represent pursuant to law or regulation, if any, applicable to their position.***

***(4) The cabinet shall adopt and promulgate, pursuant to KRS Chapter 13A, regulations approved by the committee establishing minimum standards for jails. No regulation shall be adopted or promulgated which is more stringent than standards mandated by the federal government. The*** [~~cabinet shall:~~

~~(a) By January 1, 1983, adopt the recommendations of the jail standards commission created pursuant to executive order number 81-1026 and promulgate regulations pursuant to KRS Chapter 13 establishing minimum standards for jails. Such~~] standards shall include, but not be limited to, rules governing the following areas:

***(a)***[~~1.~~] Health and safety conditions;

***(b)***[~~2.~~] Fire safety;

***(c)***[~~3.~~] Jail operations, recordkeeping and administration;

***(d)***[~~4.~~] Curriculum of basic and continuing annual training for jailers and jail personnel***, including training relating to juvenile holding facilities***;

***(e)***[~~5.~~] Custody, care and treatment of prisoners;

***(f)***[~~6.~~] Medical care; and

***(g)***[~~7.~~] Jail equipment, renovation and construction.

[~~(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary.~~]

***(5)***[~~(c)~~] ***The cabinet shall*** provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

***(6)***[~~(2)~~] The ***jail standards revision committee*** [~~cabinet~~] may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 2. KRS 441.064 is amended to read as follows:

(1) The cabinet shall employ such jail consultants, inspectors and other employees as are necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(2) The cabinet shall inspect each jail biannually and may inspect jails more frequently.

(3) The cabinet shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the cabinet deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) ***Following an inspection of a jail, the cabinet shall notify the jailer and the fiscal court by certified mail of any deficiencies which are discovered and documented. If the deficiencies are health or safety related, the notification shall be sent within ten (10) working days, excluding weekends and holidays.*** The cabinet shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

Section 3. KRS 441.075 is amended to read as follows:

(1) Whenever the cabinet finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the secretary of the cabinet shall ***recommend*** [~~order~~] that the violation be corrected immediately.

(2) [~~In order to enforce an order made pursuant to subsection (1) of this section,~~] The secretary may:

(a) ***Recommend that*** [~~Order~~] the jail or portions thereof to be vacated and closed until the violation is eliminated.

(b) ***Recommend that*** [~~Order~~] the jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) ***Recommend that*** [~~Order~~] the state contribution made pursuant to KRS 441.206 to be used, in whole or in part, to contract with another county for the incarceration of prisoners.

(3) ***The fiscal court shall have the sole authority to close its jail, except, in those cases defined by the jail standards revision committee where deficiencies pose an immediate threat to the safety or health of prisoners, the cabinet may order a jail to be closed until the deficiencies are corrected*** [~~An order issued under this section shall be in writing, incorporating the findings of the cabinet and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of said notification, request in writing a public hearing before the secretary of the cabinet or his designee on the matters covered by said order. Upon the hearing, the secretary of the cabinet or his designee may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The secretary of the cabinet or his designee may issue, modify or repeal the order at the conclusion of the hearing~~].

Section 4. KRS 441.206 is amended to read as follows:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the State Treasury in an amount equal to that paid to the county pursuant to this section in fiscal year 1983-84. Any additional moneys appropriated for county jails shall be allocated on the basis of a formula comprised of the following factors:

(a) Sixty percent (60%) of the allocation shall be based on the amount of the 1983-84 funding formula each county received;

(b) Ten percent (10%) of the allocation shall be based on each county's comparative ranking of median household income in inverse order, as determined by the 1980 federal census of population; and

(c) Thirty percent (30%) of the allocation shall be based on the proportion of each county's age at risk population (18-34) to the state total, as determined by the 1980 federal census of population.

(2) ***(a)*** Payments of the state contribution for jail operating expenses shall be made monthly by the corrections cabinet to the county treasurer.

***(b) If a county's jail is closed and the county contracts with another county for the incarceration of prisoners, the state shall reimburse the sending county the actual per diem amount paid the receiving county for housing sentenced misdemeanor prisoners, but no more than the fee set in KRS 431.215(4), and any medical costs. No county receiving any prisoner from another county for incarceration under a contractual agreement shall charge an amount in excess of the fee specified in KRS 431.215(4) and any medical costs. The state shall also reimburse the sending county a one (1) time transportation fee of twenty-five dollars ($25.00) for every arrest if the inmate is transported to a jail in another county. These costs, excluding the one (1) time transportation fee, shall be deducted from the county's entitlement pursuant to subsection (1) of this section*** [~~The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by KRS 441.025, shall not affect the state contribution provided for in subsection (1) of this section~~].

(3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city or another county for the incarceration of prisoners and any interest earned on such funds shall be expended on the incarceration of prisoners, as provided in KRS 441.025. Any funds paid under subsection (1) of this section and any interest earned on such funds shall be expended on the incarceration of prisoners, in accordance with regulations promulgated pursuant to KRS 441.055[~~, within twelve (12) months of the close of the fiscal year in which such funds were received. Any funds received by a county under subsection (1) of this section that are not expended for this purpose shall be returned to the State Treasury~~].

(4) In no event shall a county receive less than ***fifty thousand dollars ($50,000)*** [~~twenty-four thousand dollars ($24,000)~~] pursuant to this section from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law.

Section 5. KRS 71.060 is amended to read as follows:

(1) The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer.

(2) The jailer shall be responsible for the appointment and removal of jail personnel provided ***and the jailer may dismiss his deputies at any time with cause.***

***(3)*** [~~, however, that~~] The number of jail personnel shall be set by the fiscal court in the jail budget. The fiscal court shall establish education and training requirements as permitted by regulations adopted pursuant to KRS 441.055.

***(4) The fiscal court shall be liable for deficiencies in jail equipment, buildings, and curtilage only after notification in writing by the jailer or the Corrections Cabinet, and the fiscal court shall not be liable for negligence of duty or wrongful acts of the jailer or jail employees.***

Section 6. KRS 441.045 is amended to read as follows:

(1) The county governing body shall prescribe rules for the government and cleanliness of the county jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.

(2) Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

(3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental and psychological care for indigent prisoners in the county jail shall be paid from the county jail budget.

(4) The cost of providing necessary medical, dental or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.

(5) The cost of providing necessary medical, dental or psychological care[~~, beyond routine care and diagnostic services,~~] for prisoners held pursuant to a contractual agreement with the state shall be paid [~~as provided~~] by [~~contract between~~] the state [~~and county~~]. The costs of necessary medical, dental or psychological care[~~, beyond routine care and diagnostic services,~~] of prisoners held in the county jail for which the county receives a per diem payment shall be paid by the state.

(6) When the cost of necessary medical, dental or psychological care for a prisoner exceeds two thousand dollars ($2,000), as calculated by using the maximum allowable costs to similar persons or facilities for the

same or similar services under the Kentucky medical assistance program, the state shall reimburse the county for that portion of the costs that exceed two thousand dollars ($2,000). The reimbursement shall be subject to the following terms and conditions:

(a) The care is necessary as defined in subsection (9) of this section;

(b) The prisoner is indigent as defined in subsection (7) of this section, or is uninsured; and

(c) No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky medical assistance program, except as provided in subsection (10) of this section.

(7) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120. Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.

(8) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

(9) For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner. The physician attending the prisoner shall certify, under oath, that the care was necessary. ***Elective care which can be postponed without hazard to the life or health of the prisoner shall be paid for by the inmate requesting the service.***

(10) Any money appropriated for a given fiscal year to fund the state's obligation under subsection (6) of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection (6) of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.

Section 7. KRS 441.047 is amended to read as follows:

(1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar evaluation, treatment or services, it shall be the responsibility of the Commonwealth to provide such evaluation, treatment, or services at the expense of the Commonwealth at the nearest state operated or state supported facility suitable for the provision of the required evaluation, treatment, or services at no cost to the county.

(2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar evaluation in connection with the criminal proceedings in which he is a defendant it shall be the responsibility of the Commonwealth to provide the evaluation at the nearest state operated or state supported facility suitable for the provision of the required evaluation at no cost to the county.

(3) In the event that no suitable state operated or state supported facility is located within a reasonable distance, then the evaluation may be made at a suitable local facility or at the jail. In such instances a request must first be made to the Cabinet for Human Resources to provide the evaluation, treatment or service unless the situation is an emergency requiring immediate attention. If the cabinet cannot provide the service or if the situation is an emergency, then local resources may be utilized.

(4) In the event that local resources are utilized in an emergency situation, or when the Cabinet for Human Resources is unable to provide the evaluation, treatment, or service, then the reasonable cost of providing such service, treatment, or evaluation shall be paid from the State Treasury [~~in the same manner as other medical expenses of indigent prisoners confined in the county jail~~].

(5) The Cabinet for Human Resources shall administer the provisions of this section and shall issue such administrative regulations as necessary to carry out the provisions of this section.

Section 8. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law .................... ***$52.00*** [~~$42.00~~]

(b) For an offense for which prepayment is not permitted or has not been made ...... ***$57.00*** [~~$47.00~~]

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation ................................................ $ .50

(b) Preparing a certification ................................................ 1.00

(c) Preparing a copy of a document (per page) ................................................ .25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to a drivers' improvement program as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the administrative office of the courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ***twenty dollars ($20)*** [~~ten dollars ($10)~~] from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky local correctional facilities construction authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the administrative office of the courts the amounts paid to the sheriff.

Section 9. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the State Treasury a fee per day beginning on the ***date of conviction, or upon the date of entry of a guilty plea*** [~~fifth day following the day on which judgment was rendered~~] and ending the day that the defendant is delivered to the penitentiary. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

***(3) When the judgment imposes a sentence of death, the defendant shall be delivered to the penitentiary within ten (10) days after final sentencing.***

***(4) A county may contract with the Corrections Cabinet for the incarceration of prisoners who have been sentenced to serve a term in the penitentiary. The county shall receive a minimum fee of twenty-two dollars ($22.00) per day for each prisoner. If the actual costs of housing inmates exceed these prescribed fees, state reimbursement shall be based on the actual cost of housing at the jail, using a formula approved by the Kentucky Jailers' Association and the Corrections Cabinet. The Corrections Cabinet shall move a convicted prisoner from a county jail within ten (10) days following final sentencing unless the county and the Corrections Cabinet have a valid contract for housing such prisoners.***

Section 10. KRS 441.610 is amended to read as follows:

(1) KRS 441.625 to 441.695 is intended solely to provide an additional and alternative method of constructing, reconstructing, improving, or repairing and financing jails and appurtenant facilities for any

local government in this state to the end that such projects expedite the provision of safe and proper facilities by a local government for the incarceration of prisoners as defined by KRS 441.005. Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting a local government from providing for the construction, reconstruction, improvement or repair and financing of a jail and appurtenant facilities as may be otherwise provided by law.

(2) Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting two (2) or more local governments from entering into a cooperative agreement for the purpose of participating with the authority in providing for the construction, reconstruction, improvement or repair and financing of a jail and appurtenant facilities for the use and benefit of all local governments agreeing to such cooperative undertaking***, but the authority shall determine the number and location of regional jails and regional detention centers, as authorized by KRS 441.625.***

(3) Subsection (2) of this section is intended solely as an alternative method to KRS 65.210 to 65.300.

Section 11. KRS 441.625 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) ***To determine the number and location of regional jails and regional juvenile detention centers, in order to prevent duplication of effort unnecessary costs;***

***(2)*** To construct, reconstruct, improve or repair any jail and appurtenant facilities in any local government in this state, as may be determined by the authority and provided for in an agreement or agreements;

***(3)***[~~(2)~~] To acquire and to convey real estate and any improvements and buildings and facilities located thereon, for which a project is undertaken, and in such manner and under such terms as may be provided by agreement;

***(4)***[~~(3)~~] To issue revenue bonds, and revenue bond anticipation notes of the authority payable solely from the revenues, rentals, and other funds pledged for their payment, for the purpose of paying any part of the cost of any one (1) or more projects, and to refund any of its bonds;

***(5)***[~~(4)~~] To combine for financing purpose any two (2) or more projects;

***(6)***[~~(5)~~] To lease as lessor any project to any local government as lessee, pursuant to the terms and provisions of a lease;

***(7)***[~~(6)~~] To employ consulting engineers, attorneys, accountants, construction and financial experts, managers, and other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

***(8)***[~~(7)~~] To make and enter into such contracts and agreements with other parties as may be necessary and incidental to the performance of its duties and execution of its powers under KRS 441.625 to 441.695;

***(9)***[~~(8)~~] To establish and enforce rules, regulations, and specifications in respect to any project undertaken by the authority, except during any period when such powers are assigned to a lessee pursuant to a lease agreement, provided that such rules, regulations and specifications shall be consistent with state laws and regulations pertaining to jails;

***(10)***[~~(9)~~] To receive, accept and expend funds or other contributions from any source, both public and private, for or in aid of any project undertaken by the authority;

***(11)***[~~(10)~~] To create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the authority;

***(12)***[~~(11)~~] To make matching fund grants not exceeding fifty thousand dollars ($50,000) to local governments from funds determined by the authority to be available to it for such purposes, upon such terms and according to such criteria as the authority shall in its discretion determine; and

***(13)***[~~(12)~~] To do all things and perform all acts desirable, necessary and proper to carry out and implement the powers expressly granted to the authority by KRS 441.625 to KRS 441.695***, to include recommending the promulgation of regulations and enactment of legislation.***

Section 12. KRS 441.615 is amended to read as follows:

(1) There is created and established within the Finance and Administration Cabinet a Kentucky Local Correctional Facilities Construction Authority, composed of ***eight (8)*** [~~ten (10)~~] members who shall be:

(a) The secretary of the Finance and Administration Cabinet, or his designee;

(b) The secretary of the Corrections Cabinet, or his designee;

(c) The ***designee*** [~~president~~] of the Kentucky Jailers Association[~~, or his designee~~];

(d) The ***designee*** [~~president~~] of the Kentucky County Judges/Executive Association[~~, or his designee~~];

(e) The ***designee*** [~~president~~] of the Kentucky Association of Counties[~~, or his designee~~];

(f) The ***designee*** [~~president~~] of the Kentucky Magistrates and Commissioners Association[~~, or his designee~~]; ***and***

(g) [~~Two (2) citizen members appointed by the Governor; and~~

~~(h)~~] Two (2) members of the General Assembly appointed by the Governor.

(2) The ex officio members shall serve for the term of their respective office. The legislative members of the authority shall serve at the pleasure of the Governor.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of four (4) years; however, in making initial appointments, the governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The ten (10) members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) The chairman of the authority shall be the secretary of ***the*** Finance ***and Administration Cabinet***. The members of the authority shall elect a ***chairman,*** vice-chairman and secretary from their membership.

(8) The secretary of ***the*** Finance ***and Administration Cabinet*** shall designate an employee of his cabinet to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, the premium therefor to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection. The Finance and Administration Cabinet is directed and authorized to provide such funds, staff assistants, facilities and materials as may be required by the authority in the conduct of its duties and functions. The secretary of ***the*** Finance ***and Administration Cabinet*** may require the Corrections Cabinet to share in the expenses incurred by the Finance and Administration Cabinet in maintaining and operating offices of the authority.

Section 13. KRS 202A.041 is amended to read as follows:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family or others if not restrained shall detain that person without a warrant. The peace officer shall, if no other party can be found, swear out a warrant and take the arrested person without unnecessary delay before a judge. Only in exceptional cases should the delay exceed twelve (12) hours. The judge shall release the individual if no warrant has been taken out. The judge shall, unless either the court or one (1) of the parties objects, implement the procedures as provided in KRS 202A.028 and order the person to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as provided in KRS 202A.028 shall be carried out. Otherwise, the court shall order the person arrested to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom shall be a physician. The qualified mental health professionals shall certify to the court, within twenty-four (24) hours of the examination, their findings and opinions as to whether the person should be involuntarily hospitalized.

(2) If the criteria for involuntary hospitalization are certified by two (2) qualified mental health professionals, the court shall set a preliminary hearing within six (6) days from the date of arrest (excluding

weekends and holidays) to determine if there is probable cause to believe the person should be involuntarily hospitalized.

(3) Prior to the preliminary hearing, the court shall notify the respondent, his legal guardian, if any and if known, and his spouse, parents, or nearest known relative or friend concerning the involuntary hospitalization proceedings and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent.

(4) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the person should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of the arrest to determine if the person should be involuntarily hospitalized for a period of sixty (60) days.

(5) Prior to the final hearing, the county attorney shall file in the record and serve a copy thereof upon the respondent, a statement setting forth the alleged factual reasons or basis upon which the Commonwealth intends to rely in seeking the involuntary hospitalization of the respondent. The required statement shall be served upon the respondent at the earliest practical time, in any event, sufficiently in advance of the final hearing to permit preparation for the hearing by respondent.

(6) If upon completion of the final hearing, the court finds the person should be involuntarily hospitalized, the court shall order the person hospitalized in a hospital where treatment is available for a period not to exceed sixty (60) consecutive days from the date of the court order.

***(7) A person arrested under the provisions of KRS Chapter 202A shall not be incarcerated in a county jail.***

Section 14. KRS 441.630 is amended to read as follows:

If the authority deems it suitable, feasible, necessary or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of such facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated, provided that the authority's contribution from its funds (excluding rentals received under leases made by the authority and any contribution, grant, or gift made to the authority by a local government, person, or entity other than the state, for the use and benefit of such project) shall not exceed ninety percent (90%) of such cost;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and such other steps as may be necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between the authority and any local government. ***Nothing contained in this section shall be construed to prevent a county from incarcerating federal prisoners when the county has fulfilled its contractural obligation to the state to house state prisoners***;

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser thereof, the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth therein and in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute such lease and file the original or a signed counterpart thereof in the office of the authority, and the secretary of state of the Commonwealth;

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, such funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of such project or projects; and

(9) Agree to establish guidelines for the construction, reconstruction, improvement or repair of projects determined by the authority to qualify for grants from the authority.

**HCR 163**, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Counties and Special Districts to conduct a study of local mandates in the Commonwealth of Kentucky.

WHEREAS, many mandates, both legislative and administrative, have been handed down to local units of government; and

WHEREAS, these mandates are both legal requirements for local governments to undertake a certain activity, and mandates to prevent the local government from undertaking an activity; and

WHEREAS, these mandates have frequently been passed with inadequate funding; and

WHEREAS, legislative actions have provided for joint local and state funding of public services;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. The Interim Joint Committee on Counties and Special Districts shall conduct a study of the state's local mandates and their cost to both local and state government. The study shall include, but not be limited to the following:

(1) Legal requirements of state statutes;

(2) Legal requirements of state administrative regulations;

(3) Cumulative effect of local mandates on local government and the Commonwealth;

(4) Financial impact of mandates upon local and state government;

(5) Areas of conflict among local mandates; and

(6) Consideration of how counties and the state should share and divide responsibilities for providing public services in order to ensure cost effectiveness, efficient administration, citizen participation, and strong local government.

Section 2. The Interim Joint Committee on Counties and Special Districts shall submit a final report to the Legislative Research Commission by July 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000) and shall be provided from the regular Commission budget subject to the limitations and other research responsibilities of the Commission.

**SB 270**, AN ACT relating to public works.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224A.011 is amended to read as follows:

As used in this chapter, ***unless the context requires otherwise*** [~~the following words or terms shall have the respective meanings indicated whenever used in this chapter, unless a different meaning is clearly indicated by the context~~]:

(1) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(2) "Assistance agreement" ***means*** [~~shall mean~~] the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(3) "Authority" ***means*** [~~shall mean~~] the Kentucky Infrastructure Authority, which is created by this chapter.

(4) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111 and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement; and

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(5) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement or other activity to provide for flood control.

(6) "Construction" [~~means and~~] includes, ***but is not limited to*** [~~inter alia~~]:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of infrastructure projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement or extension of infrastructure projects; and

(c) The inspection and supervision of the construction of infrastructure projects and all costs incidental to the acquisition and financing of same.[~~;~~] ***This*** [~~such~~] term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure projects.

(7) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Natural Resources Cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(8) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating and distributing water for agricultural, industrial, commercial, recreational, public and domestic use.

(9) "Federal act" means the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(10) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(11) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure projects. ***This*** [~~and such~~] definition shall specifically apply, but not by way of limitation, to incorporated cities, counties, including any counties containing a metropolitan sewer district, sanitation districts, water districts, ***water associations if these associations are permitted to issue interest bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended,*** sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies,

commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing ***the*** [~~such described~~] powers ***described in this subsection.***

(12) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing or recovery of any natural resources, including heat and radioactivity, together with ***any*** [~~such~~] sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating or manufacturing processes.

(13) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority and, if required, by the Natural Resources Cabinet, Public Service Commission or other agency; solid waste management facilities; dams; storm water control and treatment systems; solid waste handling and disposal facilities; gas or electric utility; or any other public utility or public service project which the authority finds would enhance economic development opportunities in a governmental agency.

(14) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(15) "Interim financing agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance and delivery of long-term debt obligations to effect assistance to said governmental agency.

(16) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(17) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(18) "Natural Resources Cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(19) "Obligation of a governmental agency" means a revenue bond issued by a governmental agency under KRS 58.010 et seq.

(20) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(21) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders ***the*** [~~such~~] waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of ***these*** [~~such~~] waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(22) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Natural Resources Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the Department of Local Government has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund.

(23) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(24) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement. Said term shall mean any moneys and funds agreed to be paid on an annual automatically renewable basis

by any county, including any county containing a metropolitan sewer district, to the authority pursuant to an assistance agreement.

(25) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(26) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether ***the*** [~~such~~] facility is associated with facilities generating ***the*** [~~such~~] waste or otherwise.

(27) "State" means the Commonwealth of Kentucky.

(28) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from ***wastewater*** [~~such~~] treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act..

(29) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or pursuant to the standards set forth in KRS 224A.120.

(30) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of ***these*** [~~such~~] waters.

(31) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(32) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(33) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground, waters.

(34) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

The Committee on Labor and Industry reported **HB 162, HB 718, HB 719, HB 735, HB 839** with Committee Substitute attached thereto, **HB 840, HB 841** and **SCR 72** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 162,** AN ACT relating to trade practices and motor vehicle rental agreements.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***This Act shall be known and may be cited as the "Car Rental Fair Practices Act."***

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***(1) "Advertisement means any oral, written, graphic, or pictorial statement or representation, including those through any electronic or print medium.***

***(2) "Authorized driver" shall mean the person to whom the vehicle is rented; the renter's spouse if a licensed driver who satisfies the rental company's minimum age requirement; the renter's employer or***

*co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirement; any person who operates the vehicle during an emergency situation or while parking the vehicle at a commercial establishment; and any person expressly listed by the rental company on the rental agreement as an authorized driver.*

*(3) "Collision damage waiver" means any contract or contractual provision, whether separate from or a part of a rental agreement, whereby the lessor agrees, for a charge, to waive any or all claims against the lessee for any damages to the rental motor vehicle during the term of the rental agreement.*

*(4) "Lessee" means any person obtaining the use of a rental motor vehicle from a lessor for a period of thirty-one (31) days or less under the terms of a rental agreement.*

*(5) "Lessor" means an person in the business of providing rental motor vehicles to the public.*

*(6) "Motor vehicle" means a vehicle as defined in KRS 190.010(6).*

*(7) "Plain language" means language written or spoken in a clear and coherent manner using words with common and everyday meanings.*

*(8) "Rental agreement" means any written agreement or contract setting forth the terms and conditions governing the use of the rental motor vehicle by the lessee.*

*(9) "Rental company" means any person or entity in the business of renting passenger vehicles to the public.*

*(10) "Rental cost" means the daily or periodic rate charged for the use of the rental motor vehicle, but does not include optional or refueling charges.*

*(11) "Rental motor vehicle" or "vehicle" means a motor vehicle as defined above, which is rented or leased or offered for rent or lease in this State, whether for personal or commercial use, for a period of thirty-one (31) days or less.*

*(12) "Renter" means any person in any manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of thirty-one (31) days or less.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

*Advertising of car rental agreements and contracts shall meet or exceed the following standards:*

*(1) The advertised or quoted rate must include the entire amount except taxes and a mileage charge, if any, which a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. Such person shall not charge in addition to the rental rate, taxes and mileage charge, if any, any fee which must be paid by the renter as a condition of hiring or leasing the vehicle, such as, but not limited to, required fuel or airport surcharges, nor any fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.*

*(2) Optional services for which additional charges may be assessed upon voluntary selection by the lessee include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental, and collision damage waivers.*

*(3) The lessor shall be required, both orally and in writing; (which may be included, conspicuously, within the contract) to inform the potential lessee prior to conclusion of a rental agreement, of the following:*

*(a) Under common law in this and other states, a consumer is only liable for damage to or loss of a rental vehicle, if the consumer commits a negligent act or intentional wrongdoing which is the proximate cause of the damage or loss. A consumer is not liable for the criminal conduct of third parties, such as theft or vandalism, which occurs without the consumer's participation or knowledge.*

*(b) The lessee may already be covered for collision damage to rental vehicles under his own personal automobile insurance policy.*

*(c) Collision waivers which may be offered in this state, must, at a minimum, include coverage for:*

*1. An amount up to, but not to exceed the personal liability limit of five hundred dollars ($500) set forth in Section 3 below; and*

*2. A waiver of personal liability for ordinary negligence.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

*No person who rents a private passenger motor vehicle to another shall, in rental agreements of thirty-one (31) days or less, hold any authorized driver liable for any damage or loss to the rented vehicle exceeding five hundred dollars ($500) including loss of use and any costs and expenses incident to the damage, loss or loss of use except where:*

*(1) The damage is caused intentionally by an authorized driver or as a result of his willful or wanton misconduct;*

*(2) The damage arises out of the authorized driver's operation of the vehicle while intoxicated or under the influence of any drugs;*

*(3) The damage is caused while the authorized driver is engaged in any speed contest;*

*(4) The rental transaction is based on fraudulent or false information supplied by the person to whom the vehicle is rented;*

*(5) The damage arises out of the use of the vehicle while committing or otherwise involved in a crime that could be properly charged as a felony;*

*(6) The damage arises out of the use of the vehicle to carry persons or property for hire or to push or tow anything;*

*(7) The damage occurs while the vehicle is operated by a person other than an authorized driver; or*

*(8) The damage arises out of the use of the vehicle outside of the continental United States unless such use is specifically authorized by the rental agreement.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

*Charges for refueling of rental vehicles shall be assessed based under the following standards describing such optional service:*

*(1) Upon the lessee's return of the vehicle, if the amount of fuel remaining in the vehicle is less than the amount originally provided by the lessor, the lessor may charge the lessee to refuel the vehicle based upon the number of gallons or liters used by the lessee. The amount of fuel which may be charged to the lessee shall be calculated in one of two ways:*

*(a) If the vehicle was delivered to the lessee with a full tank, the number of gallons or liters required to refill the tank; or*

*(b) If the vehicle was rented with less than a fuel tank, the number of gallons or liters less than the amount originally provided by the lessor according to the vehicle's gas gauge as read both before and after the lessee's use thereof, employing an appropriate chart showing the number of gallons or liters corresponding to the gas gauge readings. Each chart shall be specifically keyed to the model of car.*

*(2) Upon the lessee's return of the vehicle, if the amount of fuel remaining in the rental vehicle is greater than the amount originally provided by the lessor upon delivery of the vehicle to the lessee, the lessor shall credit the lessee an amount based on the gallons or liters added by the lessee, calculated by the method set forth in subsection (1)(b).*

*(3) In the event that the lessor had no reasonably accessible refueling facilities, the lessor is not required to give the credit to the lessee as described in subsection (2); provided that if no credit is given, the lessor shall disclose that fact to the lessee at the time the rental agreement is signed.*

*(4) The lessor shall provide the lessee with written notice of the amount to be credited, except as provided in subsection (3), or charged on a per gallon or per liter basis.*

*(5) The price per gallon or per liter which is charged for the amount of fuel required to refuel the vehicle, as provided in subsection (1), shall not exceed the sum of the locally prevailing retail market price for similar fuel sold at self-service gasoline pumps by commercial gasoline dealers.*

*(6) The per gallon or per liter amount which is credited pursuant to subsection (2), except as provided in subsection (3), may not be lower than the locally prevailing retail market price for similar fuel sold be commercial gasoline dealers.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***No lessor shall rent a motor vehicle to a lessee unless the lessee has acknowledged that the lessee understands the information described in Sections 2 through 5 above as well as any other restrictions or conditions applicable to the rental contract. The acknowledgment shall be written in plain language on such contract and signed by the lessee.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***Unfair trade practices in the sale or promotion of passenger car rental agreements include those activities prohibited by KRS 365.020 through 365.050 and the following per se violations, to wit:***

***(1) The making of any material statement which has the tendency or capacity to mislead or deceive, either orally or in writing, in connection with the rental of, offer to rent, or advertisement to rent a vehicle;***

***(2) The omission of any material statement which has the tendency or capacity to mislead or deceive, in connection with the rental of, offer to rent, or advertisement to rent a vehicle;***

***(3) The making of any statement to the effect that the purchase of a collision damage waiver is mandatory;***

***(4) Any violation of Sections 2 through 6 of this chapter;***

***(5) The charging by the lessor to a lessee of more than the cost of the parts and labor necessary to repair a damaged vehicle in accordance with the standard practices in the automobile repair industry in the community; and***

***(6) The making of any statement by the lessor to the effect that the lessee is or will be confined to remain within boundaries specified by the lessor unless payment or an agreement relating to the payment of damages has been made by the lessee.***

***(7) Car rental agreements which violate any of the prohibitions described in this section shall be held null and void.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***Penalties applicable to violations of this Act include:***

***The remedies set forth in KRS 365.070, or as appropriate, a civil fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation which sum shall be collected in a civil suit by either the attorney general, division of consumer protection, on behalf of consumers as a class, or by an individual lessee so aggrieved for recovery of damages.***

HB 718, AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant, request the administrative law judge to and the administrative law judge shall, or upon his own motion the administrative law judge may, at any time before the rendition of the final award, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employee is found to have a dormant nondisabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) When the special fund has been made a party the administrative law judge may direct the procedures provided in KRS 342.121.

(4) If it is found that the employee is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employee is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the administrative law judge which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(5) The remaining compensation for which such resulting condition would entitle the employe, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, ***but excluding all compensation which the provisions of this chapter would have afforded on account of prior disabling disease or injury had it been compensated thereunder,*** shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employee under such regulations as the secretary of finance and administration may provide for such purpose.

(6) In making the computation for the apportionment of benefits under this section, the administrative law judge shall determine the amount of the employee's weekly income benefits and apportion the award between the employer and special fund as follows:

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, except retraining incentive benefits awarded pursuant to KRS 342.732, the portions shall be based on the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables. If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used.

**HB 719,** AN ACT relating to the Kentucky Insurance Guaranty Association.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.36-080 is amended to read as follows:

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty (30) days after the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or on request effects cancellation, if he does so within thirty (30) days of the determination. ***Except in the case of a policy of workers' compensation insurance purchased to satisfy the requirements of KRS 342.340,*** [~~but~~] such obligation shall include only that amount of each covered claim which is less than one hundred thousand dollars ($100,000). In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises;

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(c) Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under KRS 304.36-130 and other expenses authorized by this subtitle. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any year an amount greater than one percent (1%) of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association, does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it may deem reasonable including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital and surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims;

(e) Notify such persons as the commissioner directs under KRS 304.36-100 (2) (a);

(f) Handle claims through its employes or through one (1) or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer; and

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this subtitle.

(2) The association may:

(a) Appear in, defend, and appeal any action on a claim brought against the association;

(b) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(c) Borrow funds necessary to effect the purposes of this subtitle in accord with the plan of operation;

(d) Sue or be sued;

(e) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this subtitle;

(f) Perform such other acts as are necessary or proper to effectuate the purpose of this subtitle; and

(g) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

**HB 735,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For total disability, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent, partial disability, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, 1977 edition, or by his percentage of disability as determined under KRS 342.0011(11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employee, who has sustained disability compensable under this ***chapter*** [~~section~~], and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both such a widow or widower and such a child or children, to such widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of such benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no such widow or widower but such a child or children, then to such child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of such benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if such proportioned benefits remain unpaid, to be paid in a lump sum.

**HB 839**, AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no ***income benefits*** [~~compensation~~] shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case ***income benefits*** [~~compensation~~] shall be allowed from the first day of disability. All ***income benefits*** [~~compensation~~] shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid ***except that if the administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum.*** In no event shall income benefits be instituted later than the 15th day after the employer has knowledge of the disability or death. ***Income*** benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the board of such termination or failure to make payments and the board shall, in writing, advise the employe or known dependent of right to prosecute a claim under this chapter.

(2) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

The Committee Substitute to **HB 839** is as follows:

**HB 839**, AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no ***income benefits*** [~~compensation~~] shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case ***income benefits*** [~~compensation~~] shall be allowed from the first day of disability. All ***income benefits*** [~~compensation~~] shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid ***except that if the administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum.*** In no event shall income benefits be instituted later than the 15th day after the employer has knowledge of the disability or death. ***Income*** benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the board of such termination or failure to make payments and the board shall, in writing, advise the employe or known dependent of right to prosecute a claim under this chapter.

(2) ***If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.***

***(3)*** All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

**HB 840,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the administrative law judge pursuant to the statutes and administrative regulations. In an original claim, no attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to twenty percent (20%) of the first twenty-five thousand dollars ($25,000), fifteen percent (15%) of the next ten thousand dollars ($10,000) and five percent (5%) of the remainder of the amount recovered as actuarially determined on past and future benefits according to the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables and the Remarriage Tables of the Dutch Royal Insurance Institute. If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used. [~~In no case shall the fee exceed six thousand five hundred dollars ($6,500).~~] Provided, however, the administrative law judge, in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. ***The factors to be considered by the administrative law judge in making the allowance of attorney fees shall include, but not necessarily be limited to: nature, scope and quality of the attorney's services; level of skill and competence required of the attorney in rendering the services; results achieved; experience and skill level of the attorney; and contingent nature of the case. In the order making the allowance of attorney fees, the administrative law judge shall set forth findings sufficient to support the amount approved.*** The administrative law judge may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 shall result in an award of an attorney fee not exceeding seven hundred fifty dollars ($750).

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The attorney fee shall be paid in one of the following ways:

(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or

(b) The claimant may pay the attorney's fee out of his personal funds; or

(c) The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid.

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee, is to be paid. His selection and statement that he fully understands the method to be used shall be submitted, on a notarized form signed by the claimant, by his attorney at the time the motion for approval of the attorney's fee is submitted. The board shall develop the format and, content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of attorney fees and an explanation in nontechnical language of each method.

(4) The General Assembly declares that by the enactment of subsection (2)(b) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5) The administrative law judge shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316 the attorney fee shall not exceed an amount equal to seven hundred fifty dollars ($750).

(b) In all other claims, the fee of the attorney shall not exceed ***the amounts provided in subsection (1) of this section*** [~~a sum equal to twenty percent (20%) of the amount recovered, or five thousand dollars ($5,000), whichever is less~~].

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney fee may be awarded by the administrative law judge. In awarding the attorney fee, the administrative law judge shall consider ***the factors set forth in subsection (1) of this section***[~~:~~

~~1. The quality of services rendered by the attorney;~~

~~2. The amount awarded for attorney fees on the original award; and~~

~~3. The extent of the services rendered~~].

(b) Thereafter, the administrative law judge shall fix the attorney fee. No attorney fee shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding ***the amounts provided in subsection (1) of this section applicable to any additional amount recovered*** [~~an amount equal to twenty percent (20%) of any additional amount recovered but shall not exceed three thousand two hundred and fifty dollars ($3,250)~~]. If there is no additional amount recovered in a reopened claim, there shall be no attorney fee.

**HB 841,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the ***reasonable treatment*** [~~cure~~] and ***cost according to generally accepted medical standards*** [~~relief~~] from the effects of an injury or occupational disease such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability[~~, or as may be required for the cure and treatment of an occupational disease~~]. The employee may select the physician to treat his injury, and the hospital in which he shall be treated. The employer, or an insurer on behalf of the employer, shall make all payments for services rendered to an employee ***on account of his occupational disease or injury*** directly to the provider of such services within thirty (30) days of receipt of ***reasonable proof of the fact and amount of expenses for medical services incurred. Interest at the rate of twelve percent (12%) per annum may be awarded by the administrative law judge to the employee on overdue payments, except that if the administrative law judge determines that the denial or delay was without reasonable foundation, the administrative law judge may award interest to the employee at the rate of eighteen percent (18%) per annum*** [~~a statement for services~~].

(2) ***If overdue expenses for medical services are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer, or an insurer on behalf of the employer, after notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded if the administrative law judge determines that the denial or delay was without reasonable foundation.***

*(3)* When a compensable injury or occupational disease results in the amputation of an arm, leg or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall initially pay for, in addition to the other medical, surgical and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and where required, proper braces.

*(4)*[~~(3)~~] Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that because of the physician selected by the employee to treat his injury or disease, or because of the hospital selected by the employee in which he is being treated, that the employee is not receiving proper medical treatment and his recovery is being substantially affected or delayed; or that the funds for his medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for his injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital or attendant thereof.

*(5)*[~~(4)~~] An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury for which the employee claims compensation.

SCR 72, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Labor and Industry to study the implications of demographic changes in Kentucky, especially those involving the age and work patterns of Kentucky citizens.

WHEREAS, significant demographic changes are occurring in Kentucky; and

WHEREAS, those changes affect virtually every aspect of Kentucky life; and

WHEREAS, two of the most significant demographic changes involve the age and work patterns of Kentucky citizens;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Interim Joint Committee on Labor and Industry is directed to study during the 1990-1991 interim the implications of demographic changes in Kentucky, especially those involving the age and work patterns of Kentucky citizens.

Section 2. That the Interim Joint Committee on Labor and Industry is directed to provide its findings and recommendations to the Legislative Research Commission no later than August 1, 1991.

Section 3. That staff services to be utilized in completing this study are estimated to cost fifteen thousand dollars ($15,000) and shall be provided from the regular Legislative Research Commission budget, subject to the limitations and other research responsibilities of the commission.

The Committee on Appropriations and Revenue reported **HB 429** with Committee Substitute attached thereto, **HB 538** with Committee Substitute attached thereto, **HB 579** with Committee Amendment attached thereto, **HB 691** and **HB 738** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 429**, AN ACT relating to property taxation and the administration thereof.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full time employees, shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355 and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the ***secretary of revenue*** [~~circuit court of his county, upon petition of the cabinet or any taxpayer,~~] for ***any of the following grounds:***

***(a)*** Willful disobedience of any just or legal order of the cabinet, or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties***; or***

***(b) A finding by the Revenue Cabinet of chronic or intentional underassessment based on either:***

***1. The randomly selected sample appraisals conducted under the provisions of KRS 133.250; or***

***2. The sales-assessment ratio studies conducted under the provisions of KRS 133.250 when the ratio study of any county indicates a ratio below eighty-five percent (85%) in any calendar year or below ninety percent (90%) in a period of two (2) consecutive calendar years.***

***(5) Appeal of removal under the provisions of this section shall be available within thirty (30) days after entry of the final order of the secretary of revenue directly through Franklin Circuit Court, notwithstanding the provisions of KRS Chapter 18A. Review by the court shall be limited to determining whether or not:***

***(a) The secretary acted without or in excess of his power;***

***(b) The order appealed from was procured by fraud or misconduct;***

***(c) Substantial evidence supports the order appealed from; and***

***(d) The secretary's decision is supported by the law.***

***(6) If a property valuation administrator is removed from office as provided in subsections (4) and (5) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the Revenue Cabinet pertaining to the office***[~~, but he or the petitioner may appeal to the Court of Appeals~~].

Section 2. KRS 132.375 is amended to read as follows:

Whenever a vacancy occurs in the property valuation administrator's office, the secretary of revenue ***shall*** [~~may~~] designate a ***qualified cabinet employee*** [~~person~~] to carry on the duties of the office ***for the balance of the term*** [~~until such time as some person can be duly qualified and appointed~~]. The ***cabinet employee so designated*** [~~persons so designated shall be compensated on a pro rata basis for the calendar days served from funds made available to the office from the state under KRS 132.590, except, where an agent of the revenue cabinet is so designated, said agent~~] shall be compensated from Revenue Cabinet funds in the same manner and at the same rate as compensated prior to his receiving such designation, plus necessary expenses, including travel. Such individual shall have all the powers and be subject to all the regulations applying to property valuation administrators. [~~In no event shall the person designated to act as property valuation administrator by the secretary of revenue serve in excess of ninety (90) days unless otherwise qualified and appointed.~~]

Section 3. KRS 132.990 is amended to read as follows:

(1) Any person who wilfully fails to supply the property valuation administrator or the Revenue Cabinet with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who wilfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense[~~, and the judgment of conviction may declare his office vacant~~].

(3) Any county clerk who wilfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50.00) for each offense.

(4) Any person who wilfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

SECTION 4. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

***(1) At the time a conveyance document is presented to the county clerk to be recorded, at least one (1) of the transferors and at least one (1) of the transferees shall swear on the face of the conveyance document that the price actually paid in the course of the transfer transaction is the price as stated in the document. The oath may also be conveyed in an affidavit sworn to by either the transferor or transferee and submitted at the time the conveyance document is filed and shall be attached thereto. The county clerk may administer the oath or receive the affidavit in lieu thereof and the recording of the conveyance document shall be deemed an official proceeding in accordance with the provisions of KRS 523.010.***

***(2) A person making a false statement in the oath prescribed by subsection (1) of this section or in an affidavit executed for the same purpose shall be guilty of perjury in the first degree in accordance with the provisions of KRS 523.020 and subject to the penalty prescribed for a Class D felony.***

***(3) An attorney, a realtor, a lender or any other participant in a real estate closing who participates in a closing in which the purchase price of the transaction is knowingly misstated shall be guilty of perjury in the second degree in accordance with the provisions of KRS 523.030 and subject to the penalty prescribed for a Class A misdemeanor.***

Section 5. KRS 134.380 is amended to read as follows:

(1) ***If the real property tax delinquency rate as certified by the Revenue Cabinet for any county exceeds five percent (5%) in any tax year effective after December 31, 1990,*** the secretary ***shall*** [~~may~~] act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, school and other taxing districts in the state, except cities, to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property ***for the tax year with the excessive delinquency rate and for any previous tax year.***

(2) Field agents, accountants and attorneys of the cabinet shall prosecute all such actions and proceedings under the direction of the secretary. Field agents, accountants, attorneys, and all other employees of the cabinet engaged in the prosecution of such actions shall not be hired by personal service contract. The secretary shall prosecute diligently, or cause to be prosecuted by field agents, accountants and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the secretary of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, 136.120 to 136.180 or 136.270.

(4) The cabinet may require any reports necessary to administer the law in connection with the collection of delinquent taxes, and may promulgate rules and regulations as to how the tax bills, certificates of delinquency and other forms shall be filed and recorded. The cabinet shall require an index to be kept of all certificates of delinquency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

***If the real property tax delinquency rate as certified by the Revenue Cabinet for any county exceeds five percent (5%) in any two (2) consecutive tax years effective after December 31, 1990, the commissions allowed by the Revenue Cabinet in accordance with the provisions of KRS 134.290(1) may be reduced by one percent (1%) for the next tax year and shall continue to be allowed at the reduced rate until the delinquency rate is certified by the cabinet to be five percent (5%) or less.***

Section 7. KRS 134.470 is amended to read as follows:

An uncollectible tax bill or a certificate of delinquency shall embrace the entire tax claim, including the lien provided in subsection (1) of KRS 134.420, and shall continue to be a personal obligation of the delinquent taxpayer. Any property while owned by him shall be subject to foreclosure or execution in satisfaction of a judgment pursuant to an action in rem or an action in personam, or both, to enforce the obligation, and shall also be subject to distraint or levy as provided in subsection (1) of KRS 134.430, but no action may be brought to enforce a certificate of delinquency until ***one (1) year*** [~~three (3) years~~] after the issuance thereof, and the action must be instituted within five (5) years after the expiration of that ***one (1)*** [~~three (3)~~] year period. During the ***one (1)*** [~~three (3)~~] year period the statute of limitations shall be suspended in all respects and shall be continued in all respects for five (5) years thereafter. If the owner of a certificate of delinquency proceeds to enforce satisfaction of the certificate, he may include all other certificates held by him against the same delinquent taxpayer, but insofar as the proceedings may undertake to effect a lien foreclosure they shall be governed by the time applicable to the particular property subject to the lien, if that property is no longer owned by the delinquent.

Section 8. KRS 134.490 is amended to read as follows:

(1) If a private person is the owner of a certificate of delinquency he may, after the expiration of the ***one (1)*** [~~three (3)~~] year period provided in KRS 134.470:

(a) Institute an action against the delinquent taxpayer to collect the amount of the certificate, and any other such certificates subsequently issued to the same owner against the same delinquent, and shall have all the remedies available for the enforcement of a debt; or

(b) Institute an action to enforce the lien provided in subsection (1) of KRS 134.420, represented by the certificate that is more than ***one (1) year*** [~~three (3) years~~] of age, and those certificates subsequently held by the same owner against the same delinquent or property; or

(c) Institute one (1) action including both types of actions mentioned in paragraphs (a) and (b) of this subsection, and such joinder of actions shall not be defeated in the event the delinquent taxpayer has disposed of any property covered by the lien, but the purchaser of the property shall be made a defendant if the judgment is to affect his interest in the property, and as between them the delinquent taxpayer shall be responsible.

(2) If the state, county or a taxing district is the owner of a certificate of delinquency, it shall have, after the expiration of the ***one (1)*** [~~three (3)~~] year period provided in KRS 134.470, in addition to the remedies mentioned in subsection (1) of this section, the right to distrain and sell any property owned by the delinquent, including that on which the lien provided in subsection (1) of KRS 134.420 has attached. Any property sold under such distraint proceedings shall be sold in the same manner as provided in KRS 134.430 and 134.440, except that the exercise of such power shall be vested in the county attorney. The county attorney may designate the property subject to distraint and require the sheriff to take the custody thereof if he deems custody of the property necessary. If the sheriff fails to perform this duty, he shall not be entitled to his six per cent (6%) fee provided in KRS 134.440.

(3) Where property is sold pursuant to a judgment of foreclosure, it shall not be appraised as in other foreclosure proceedings and there shall be no right of redemption except as provided in KRS 134.510. If there is no purchaser at a foreclosure sale, the master commissioner shall make a deed to the person or persons shown by record to be the owner of the certificate or certificates of delinquency, and they shall have a pro rata interest therein in accordance with the amount of their respective certificates.

The Committee Substitute to **HB 429** is as follows:

**HB 429**, AN ACT relating to property taxation and the administration thereof.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full time employees, shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355 and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the ***secretary of revenue*** [~~circuit court of his county, upon petition of the cabinet or any taxpayer,~~] for ***any of the following grounds:*** willful disobedience of any just or legal order of the cabinet, or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties***, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and Section 7 of this Act, "chronic underassessment" shall mean a widespread pattern and practice of assessing***

***properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to Section 7 of this Act, or other means.***

***(5) Appeal of removal under the provisions of this section shall be available within thirty (30) days after entry of the final order of the secretary of revenue in a Circuit Court of an adjacent judicial circuit, notwithstanding the provisions of KRS Chapter 18A. Review by the court shall be limited to determining whether or not:***

***(a) The secretary acted without or in excess of his power;***

***(b) The order appealed from was procured by fraud or misconduct;***

***(c) Substantial evidence supports the order appealed from; and***

***(d) The secretary's decision is supported by the law.***

***(6) If a property valuation administrator is removed from office as provided in subsections (4) and (5) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the Revenue Cabinet pertaining to the office***[~~, but he or the petitioner may appeal to the Court of Appeals~~].

Section 2. KRS 132.375 is amended to read as follows:

Whenever a vacancy occurs in the property valuation administrator's office, the secretary of revenue ***shall*** [~~may~~] designate a ***qualified cabinet employee*** [~~person~~] to carry on the duties of the office ***for the balance of the term*** [~~until such time as some person can be duly qualified and appointed~~]. The ***cabinet employee so designated*** [~~persons so designated shall be compensated on a pro rata basis for the calendar days served from funds made available to the office from the state under KRS 132.590, except, where an agent of the revenue cabinet is so designated, said agent~~] shall be compensated from Revenue Cabinet funds in the same manner and at the same rate as compensated prior to his receiving such designation, plus necessary expenses, including travel. Such individual shall have all the powers and be subject to all the regulations applying to property valuation administrators. [~~In no event shall the person designated to act as property valuation administrator by the secretary of revenue serve in excess of ninety (90) days unless otherwise qualified and appointed.~~]

Section 3. KRS 132.990 is amended to read as follows:

(1) Any person who wilfully fails to supply the property valuation administrator or the Revenue Cabinet with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who wilfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense[~~, and the judgment of conviction may declare his office vacant~~].

(3) Any county clerk who wilfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50.00) for each offense.

(4) Any person who wilfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

SECTION 4. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

***(1) At the time a conveyance document is presented to the county clerk to be recorded, at least one (1) of the transferors and at least one (1) of the transferees shall swear on the face of the conveyance document that the price actually paid in the course of the transfer transaction is the price as stated in the document. The oath may also be conveyed in an affidavit sworn to by either the transferor or transferee and submitted at the time the conveyance document is filed and shall be attached thereto. The county clerk may administer the oath or receive the affidavit in lieu thereof and the recording of the conveyance document shall be deemed an official proceeding in accordance with the provisions of KRS 523.010.***

***(2) A person making a false statement in the oath prescribed by subsection (1) of this section or in an affidavit executed for the same purpose shall be guilty of perjury in the first degree in accordance with the provisions of KRS 523.020 and subject to the penalty prescribed for a Class D felony.***

***(3) Any attorney, realtor, lender, or other person who participates in a real estate closing with the***

***knowledge that the purchase price of the transaction is misstated in the conveyance document shall be guilty of perjury in the second degree in accordance with the provisions of KRS 523.030 and subject to the penalty prescribed for a Class A misdemeanor.***

Section 5. KRS 134.380 is amended to read as follows:

(1) ***If the real property tax delinquency rate as certified by the Revenue Cabinet for any county exceeds five percent (5%) in any tax year effective after December 31, 1990,*** the secretary ***shall investigate the reasons for the delinquency and*** may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, school and other taxing districts in the state, except cities, to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property ***for the tax year with the excessive delinquency rate and for any previous tax year.***

(2) Field agents, accountants and attorneys of the cabinet shall prosecute all such actions and proceedings under the direction of the secretary. Field agents, accountants, attorneys, and all other employees of the cabinet engaged in the prosecution of such actions shall not be hired by personal service contract. The secretary shall prosecute diligently, or cause to be prosecuted by field agents, accountants and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the secretary of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, 136.120 to 136.180 or 136.270.

(4) The cabinet may require any reports necessary to administer the law in connection with the collection of delinquent taxes, and may promulgate rules and regulations as to how the tax bills, certificates of delinquency and other forms shall be filed and recorded. The cabinet shall require an index to be kept of all certificates of delinquency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

***If the real property tax delinquency rate as certified by the Revenue Cabinet for any county exceeds five percent (5%) in any two (2) consecutive tax years effective after December 31, 1990, the commissions allowed by the Revenue Cabinet in accordance with the provisions of KRS 134.290(1) may be reduced by one percent (1%) for the next tax year and shall continue to be allowed at the reduced rate until the delinquency rate is certified by the cabinet to be five percent (5%) or less.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

***The cabinet shall conduct a special audit to determine the presence or absence of chronic underassessment in any county for which the sales-assessment ratio studies conducted under the provisions of KRS 133.250 indicates a ratio below eighty percent (80%) for two (2) consecutive calendar years. The audit may be conducted through the use of randomly-selected sample appraisals or other means reasonably calculated to present an accurate determination of assessment practices in the county.***

**HB 538,** AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies herein named for claims which have been duly audited and approved according to law, but which have not been paid because of lapsing or insufficiency of former appropriations against which said claims were chargeable, the sums hereinafter specified:

| | |
|---|---|
| Frankfort Blue Print & Supply Co.<br>P.O. Box 614<br>Frankfort, Kentucky 40601 | $2,000.00 |
| Schneider & Knight, PSC<br>2533 Larkin Road<br>Lexington, Kentucky 40503 | $1,555.00 |
| Drs. Smith, Petry & Chumbley<br>Route #3, Box 38<br>Corbin, Kentucky 40701 | $2,750.00 |
| Regional Medical Center<br>Hospital Drive<br>Madisonville, Kentucky 42431 | $ 864.00 |

| | |
|---|---|
| Learning Trends/Prentice Hall<br>P.O. Box 102617, 68 Annex<br>Atlanta, Georgia 30368 | $ 49.95 |
| Pediatric Radiology Associates<br>Dept. 94129<br>Louisville, Kentucky 40294 | $ 295.11 |
| Coo-Par Concrete Corp.<br>Orchard Street<br>Madison, Indiana 47250 | $ 795.13 |
| Perry R. Miller<br>216 Pleasantview Avenue<br>Louisville, Kentucky 40206 | $ 768.02 |
| Roche Biomedical Laboratories, Inc.<br>P.O. Box 2250<br>Burlington, North Carolina 27215 | $ 776.00 |
| Dr. James A. Wells<br>P.O. Box 673-T & T Square<br>41A and Pride Avenue<br>Madisonville, Kentucky 42431 | $1,310.00 |
| Missions House, Inc.<br>1381 South Brook Street<br>Louisville, Kentucky 40208 | $1,265.00 |
| Humana Hospital University<br>Drawer 94066<br>Louisville, Kentucky 40294 | $3,630.65 |
| Wilmer & Scheiner Law Offices<br>Suite 300 Thurman Arnold Building<br>1200 New Hampshire Avenue, NW<br>Washington, DC 20036 | $31,580.83 |
| Roland P. Merkel<br>411 West Broadway<br>P.O. Box B<br>Frankfort, Kentucky 40602 | $2,991.70 |
| Rudy Yessin<br>411 West Broadway<br>Frankfort, Kentucky 40602 | $ 896.31 |
| Lindley Packaging<br>P.O. Box 75011<br>Baltimore, Maryland 21275 | $6,108.80 |
| Wakely and Associates, Inc.<br>2046 West Park Place, Suite E<br>Stone Mountain, Georgia 30087 | $5,097.50 |
| Western Baptist Hospital<br>2501 Kentucky Avenue<br>Paducah, Kentucky 42001 | $2,208.91 |
| Internal Medicine Clinic of Paducah, PSC<br>P.O. Box 7448<br>Paducah, Kentucky 42002-7448 | $ 205.00 |
| Surgical Group, PSC<br>P.O. Box 7239<br>Paducah, Kentucky 42002 | $ 615.00 |

| | |
|---|---|
| Anesthesiology, PSC<br>P.O. Box 7709<br>Paducah, Kentucky 42002-7709 | $ 240.00 |
| Radiology Group of Paducah, PSC<br>3576 Lone Oak Road<br>Paducah, Kentucky 42001 | $ 20.00 |
| Transitions, Inc.<br>603 York Street<br>Newport, Kentucky 41071 | $5,050.00 |
| Trover Clinic<br>200 Clinic Drive<br>Madisonville, Kentucky 42431 | $ 140.00 |
| Alton C. Arney, DMD<br>P.O. Box 5<br>Russellville, Kentucky 42276 | $ 7.00 |
| George C. Borst III, LMD<br>1201 St. Christopher Drive<br>Ashland, Kentucky 41101 | $ 805.00 |
| Perry County Treasurer<br>Perry County Courthouse<br>Hazard, Kentucky 41701 | $3,102.70 |
| Glendolyn N. Hughes<br>402 Ewing Street<br>Frankfort, Kentucky 40601 | $ 90.00 |
| Stephen L. Metts<br>% Carter Caves State Resort Park<br>Olive Hill, Kentucky 41164 | $1,682.50 |
| Gerald T. Kemper, Esq.<br>109 North Thomas Street<br>Owenton, Kentucky 40359 | $129,840.00 |
| Dan Boone Co.<br>1097 E. Kentucky Street<br>P.O. Box 4115<br>Louisville, Kentucky 40204 | $ 135.00 |

(2) The claims hereinafter enumerated are for the payment of State Treasury checks payable to the persons, or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

| | Payee | Treas. Fee | Total Check |
|---|---|---|---|
| Check #T7,707,613 dated May 29, 1979 | | | |
| Robert E. Wier<br>1436 J. Agawela Avenue<br>Knoxville, Tenn. 37919 | 74.55 | 25.00 | 99.55 |
| Check #G8,834,260 dated March 4, 1983 | | | |
| Thomas E. Byerly<br>802 Nalomis Street<br>Danville, Kentucky 40422 | 115.00 | 25.00 | 140.00 |
| Check #T0,674,713 dated June 23, 1982 | | | |
| Thomas J. & S.C. Moran<br>614 Crestwood Drive<br>Greensville, SC 29609 | 4.00 | 25.00 | 99.00 |

| | | | |
|---|---|---|---|
| Check #T1,472,374 dated June 3, 1983 | | | |
| Elizabeth D. Mathis<br>163 Crescent Avenue<br>Louisville, Kentucky 40206 | $ 27.28 | 25.00 | 52.78 |
| Check #P4,876,274 dated December 21, 1972 | | | |
| Judith Beyer<br>3875 Olivet Church Road<br>Paducah, Kentucky 42002 | 112.79 | 25.00 | 137.79 |
| Check #562290 dated June 29, 1965 | | | |
| Jerome D. & S. Berman<br>6337 Limewood Circle<br>Louisville, Kentucky 40222 | 192.83 | 25.00 | 217.83 |
| Check #T0,652,798 dated June 23, 1982 | | | |
| Michael J. & M. P. Lesley<br>9104 Emerson's Reach<br>Columbia, MD 21045 | 25.86 | 25.00 | 50.86 |
| Check #T2,278,954 dated May 9, 1984 | | | |
| Earl R. & M. A. Sanford<br>488 Rush Mill Road<br>Russellville, Kentucky 42276 | 35.00 | 25.00 | 60.00 |
| Check #T1,581,817 dated September 29, 1983 | | | |
| Hugh H. & L. K. Bennett<br>RR 1, Delong Road<br>Lexington, Kentucky 40503 | 593.10 | 65.90 | 659.00 |
| Check #T2,352,604 dated June 4, 1984 | | | |
| Karla J. Bolte Buening<br>8700 Sunnybrook Drive<br>Evansville, Indiana 47711 | 7.71 | 25.00 | 32.71 |
| Check #T7,774,718 dated June 11, 1979 | | | |
| Ernest L. Simmons<br>167 Dana Court<br>Glasgow, Kentucky 42141 | 12.80 | 25.00 | 37.80 |
| Check #G7,414,584 dated April 16, 1981 | | | |
| W. L. Quisenberry<br>28 Hill Street<br>Winchester, Kentucky 40391 | 70.85 | 25.00 | 95.85 |
| Check #T1,508,583 dated June 7, 1983 | | | |
| Calvin Jones<br>1915 Heaton<br>Lousville, Kentucky 40216 | 584.80 | 64.98 | 649.78 |
| Check #T6,939,771 dated June 7, 1978 | | | |
| Kanah & J. Johnson<br>4624 Beaver Road<br>Louisville, Kentucky 40207 | 49.14 | 25.00 | 74.14 |

| | | | |
|---|---|---|---|
| Check #G9,091,294 dated June 27, 1983 | | | |
| John F. Crum<br>Crum Motor Sales, Inc.<br>S. Main Street<br>Inez, Kentucky 41224 | 472.50 | 52.50 | 525.00 |
| Check #G9,186,294 dated September 16, 1983 | | | |
| John F. Maley<br>J-Mar Services<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 15,000.00 | | 15,000.00 |
| Check #P8,402,090 dated March 10, 1981 | | | |
| W. A. Fitzgerald, Pres.<br>Fitzgerald Drugs<br>831 Louisville Road<br>Frankfort, Kentucky 40601 | 187.61 | 25.00 | 212.61 |
| Check #T4,591,656 dated June 16, 1975 | | | |
| Crystallie C. Allen<br>1910 Old Trenton Road<br>Clarksville, Tenn. 37040 | 3.00 | 25.00 | 28.00 |
| Check #G6,758,141 dated June 30, 1980 | | | |
| John F. Maley<br>J-Mar Services<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 94.00 | | 94.00 |
| Check #T2,385,404 dated June 13, 1972 | | | |
| Robert G. Simpson III<br>739 Starks Building<br>Louisville, Kentucky 40202 | 2.83 | 25.00 | 27.83 |
| Check #T9,652,670 dated July 6, 1981 | | | |
| Hershel & L. B. Tipton<br>235 McDowell Road<br>Lexington, Kentucky 40502 | 727.93 | 80.88 | 808.81 |
| Check #T0,591,920 dated June 3, 1982 | | | |
| Allan Gajadhar<br>9009 Hurstwood Court<br>Louisville, Kentucky 40222 | 2.72 | 25.00 | 27.72 |
| Check #P2,491,455 dated December 19, 1977 | | | |
| Betsey W. Meade<br>Route 4-509<br>Fulton, Kentucky 42041 | 123.33 | 25.00 | 148.33 |
| Check #P7,405,284 dated August 26, 1990 | | | |
| K. M. Washam<br>c/o Bank of McCreary County<br>P.O. Box 160<br>Whitley City, Kentucky 42653 | 225.70 | 25.07 | 250.77 |

| | | | |
|---|---|---|---|
| Check #P7,405,285 dated August 26, 1980 | | | |
| V. L. Washam<br>c/o Bank of McCreary County<br>P.O. Box 160<br>Whitley City, Kentucky 42653 | 217.10 | 25.00 | 242.10 |
| Check #T7,936,535 dated August 29, 1979 | | | |
| Marcus & A. Jones<br>c/o Allstates Collection Agency, Inc.<br>880 Sparta Court<br>Suite 203<br>Lexington, Kentucky 40504 | 45.00 | 25.00 | 70.00 |
| Check #P0,605,245 dated August 12, 1982 | | | |
| Debra Fannin<br>126 Merlin Place<br>Florence, Kentucky 41042 | 103.20 | 25.00 | 128.20 |
| Check #P1,099,485 dated March 7, 1983 | | | |
| John Gary Stringer<br>210 Auburn Avenue<br>Somerset, Kentucky 42501 | 128.99 | 25.00 | 153.99 |
| Check #G8,591,549 dated December 10, 1982<br>Check #G8,500,897 dated October 22, 1982 | | | |
| Dora Brann<br>315 Hallam Avenue<br>Erlanger, Kentucky 41018 | 32.80 | 50.00 | 82.80 |
| Check #T8,829,117 dated June 30, 1980 | | | |
| Bank One, Lexington, NA<br>Phillip W. Scott<br>Co-Executors of Phebe B. Shankland Estate<br>P.O. Box 575<br>Lexington, Kentucky 40586 | 577.80 | 64.20 | 642.00 |
| Check #G4,812,141 dated December 5, 1977<br>Check #G4,812,145 dated December 5, 1977 | | | |
| Harlan Paving & Construction Co.<br>c/o J-Mar Services, Inc.<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 20,459.89 | | 20,459.89 |
| Check #A3,963,462 dated February 1, 1981 | | | |
| Brenda Oldfield<br>Box 156<br>White Oak, Kentucky 41474 | 210.00 | 25.00 | 235.00 |
| Check #T1,274,260 dated April 11, 1983 | | | |
| Mike Holt<br>3932 Clarks River Road<br>Paducah, Kentucky 42003 | 50.00 | 25.00 | 75.00 |
| Check #G6,560,434 dated March 17, 1980 | | | |
| Estate of Earl Willett<br>c/o Lloyd Willett<br>Box 197<br>Battletown, Kentucky 40104 | 41.15 | 25.00 | 66.15 |

Section 2. The Finance and Administration Cabinet and the State Treasurer are hereby authorized to pay the following listed claims from the following funds:

(1) The Kentucky Retirement System is authorized to make payment form their retirement fund for State Treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

| | Payee | Treas Fee | Total Check |
|---|---|---|---|
| Check #R0,958,160 dated July 11, 1978 | 60.35 | 25.00 | 83.35 |
| Check #R0,970,144 dated August 9, 1978 | 60.35 | 25.00 | 85.35 |
| Check #R0,981,258 dated September 8, 1978 | 60.35 | 25.00 | 85.35 |
| Check #R1,274,314 dated October 7, 1980 | 70.00 | 25.00 | 95.00 |
| Check #R1,287,256 dated November 6, 1980 | 70.00 | 25.00 | 95.00 |
| Check #R1,299,899 dated December 10, 1980 | 70.00 | 25.00 | 95.00 |
| Check #R1,312,229 dated January 9, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,324,655 dated February 9, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,337,351 dated March 9, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,349,593 dated April 8, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,362,470 dated May 5, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,375,323 dated June 5, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,381,787 dated July 8, 1981 | 75.70 | 25.00 | 100.70 |
| Check #R1,449,894 dated December 4, 1981 | 75.70 | 25.00 | 100.70 |
| Check #R1,462,944 dated January 11, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,476,384 dated February 9, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,489,945 dated March 4, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,503,270 dated April 6, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,516,427 dated May 7, 1982 | 75.70 | 25.00 | 100.70 |
| | 1,340.95 | 475.00 | 1,815.95 |
| Marem E. Brown<br>3311 Kirby Avenue<br>Louisville, Kentucky 40211 | 1,340.95 | | |

(2) The Cabinet for Human Resources is authorized to make payment from their Unemployment Compensation Fund for State Treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

| | Payee | Treas Fee | Total Check |
|---|---|---|---|
| Check #U5,043,293 dated October 13, 1982 | | | |
| Freda M. Asseff<br>1028 Reasor Avenue<br>Louisville, Kentucky 40217 | 246.60 | 27.40 | 274.00 |
| Check #U3,639,028 dated February 22, 1970 | | | |
| W. A. Edelen<br>6008 Newcut Road<br>Fairdale, Kentucky 40118 | 45.29 | 25.00 | 70.00 |

Section 3. The persons and companies named above having in good faith furnished the services, supplies, and materials enumerated, and the Commonwealth having received the benefits of same, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

The Committee Substitute to **HB 538** is as follows:

**HB 538**, AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies herein named for claims which have been duly audited and approved according to law, but which have not been paid because of lapsing or insufficiency of former appropriations against which said claims were chargeable, the sums hereinafter specified:

| | |
|---|---|
| Frankfort Blue Print & Supply Co.<br>P.O. Box 614<br>Frankfort, Kentucky 40601 | $2,000.00 |
| Schneider & Knight, PSC<br>2533 Larkin Road<br>Lexington, Kentucky 40503 | $1,555.00 |
| Drs. Smith, Petry & Chumbley<br>Route #3, Box 38<br>Corbin, Kentucky 40701 | $2,750.00 |
| Regional Medical Center<br>Hospital Drive<br>Madisonville, Kentucky 42431 | $ 864.00 |
| Learning Trends/Prentice Hall<br>P.O. Box 102617, 68 Annex<br>Atlanta, Georgia 30368 | $ 49.95 |
| Pediatric Radiology Associates<br>Dept. 94129<br>Louisville, Kentucky 40294 | $ 295.11 |
| Coo-Par Concrete Corp.<br>Orchard Street<br>Madison, Indiana 47250 | $ 795.13 |
| Roche Biomedical Laboratories, Inc.<br>P.O. Box 2250<br>Burlington, North Carolina 27215 | $ 776.00 |
| Dr. James A. Wells<br>P.O. Box 673-T & T Square<br>41A and Pride Avenue<br>Madisonville, Kentucky 42431 | $1,310.00 |
| Missions House, Inc.<br>1381 South Brook Street<br>Louisville, Kentucky 40208 | $1,265.00 |
| Humana Hospital University<br>Drawer 94066<br>Louisville, Kentucky 40294 | $3,630.65 |
| Wilmer & Scheiner Law Offices<br>Suite 300 Thurman Arnold Building<br>1200 New Hampshire Avenue, NW<br>Washington, DC 20036 | $31,580.83 |
| Lindley Packaging<br>P.O. Box 75011<br>Baltimore, Maryland 21275 | $6,108.80 |
| Wakely and Associates, Inc.<br>2046 West Park Place, Suite E<br>Stone Mountain, Georgia 30087 | $5,097.50 |
| Western Baptist Hospital<br>2501 Kentucky Avenue<br>Paducah, Kentucky 42001 | $2,208.91 |

| | |
|---|---|
| Internal Medicine Clinic of Paducah, PSC<br>P.O. Box 7448<br>Paducah, Kentucky 42002-7448 | $ 205.00 |
| Surgical Group, PSC<br>P.O. Box 7239<br>Paducah, Kentucky 42002 | $ 615.00 |
| Anesthesiology, PSC<br>P.O. Box 7709<br>Paducah, Kentucky 42002-7709 | $ 240.00 |
| Radiology Group of Paducah, PSC<br>3576 Lone Oak Road<br>Paducah, Kentucky 42001 | $ 20.00 |
| Transitions, Inc.<br>603 York Street<br>Newport, Kentucky 41071 | $5,050.00 |
| Trover Clinic<br>200 Clinic Drive<br>Madisonville, Kentucky 42431 | $ 140.00 |
| Alton C. Arney, DMD<br>P.O. Box 5<br>Russellville, Kentucky 42276 | $ 7.00 |
| George C. Borst III, LMD<br>1201 St. Christopher Drive<br>Ashland, Kentucky 41101 | $ 805.00 |
| Perry County Treasurer<br>Perry County Courthouse<br>Hazard, Kentucky 41701 | $3,102.70 |
| Glendolyn N. Hughes<br>402 Ewing Street<br>Frankfort, Kentucky 40601 | $ 90.00 |
| Coleman Rentals<br>P. O. Box 468<br>Paintsville, Kentucky 41240 | $6,190.12 |
| Dan Boone Co.<br>1097 E. Kentucky Street<br>P.O. Box 4115<br>Louisville, Kentucky 40204 | $ 135.00 |

(2) The claims hereinafter enumerated are for the payment of State Treasury checks payable to the persons, or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

| | Payee | Treas Fee | Total Check |
|---|---|---|---|
| Check #T7,707,613 dated May 29, 1979 | | | |
| Robert E. Wier<br>1436 J. Agawela Avenue<br>Knoxville, Tenn. 37919 | 74.55 | 25.00 | 99.55 |
| Check #G8,834,260 dated March 4, 1983 | | | |
| Thomas E. Byerly<br>802 Nalomis Street<br>Danville, Kentucky 40422 | 115.00 | 25.00 | 140.00 |

| | | | |
|---|---|---|---|
| Check #T0,674,713 dated June 23, 1982 | | | |
| Thomas J. & S.C. Moran<br>614 Crestwood Drive<br>Greensville, SC 29609 | 74.00 | 25.00 | 99.00 |
| Check #T1,472,374 dated June 3, 1983 | | | |
| Elizabeth D. Mathis<br>163 Crescent Avenue<br>Louisville, Kentucky 40206 | 27.78 | 25.00 | 52.78 |
| Check #P4,876,274 dated December 21, 1972 | | | |
| Judith Beyer<br>3875 Olivet Church Road<br>Paducah, Kentucky 42002 | 112.79 | 25.00 | 137.79 |
| Check #562290 dated June 29, 1965 | | | |
| Jerome D. & S. Berman<br>6337 Limewood Circle<br>Louisville, Kentucky 40222 | 192.83 | 25.00 | 217.83 |
| Check #T0,652,798 dated June 23, 1982 | | | |
| Michael J. & M. P. Lesley<br>9104 Emerson's Reach<br>Columbia, MD 21045 | 25.86 | 25.00 | 50.86 |
| Check #T2,278,954 dated May 9, 1984 | | | |
| Earl R. & M. A. Sanford<br>488 Rush Mill Road<br>Russellville, Kentucky 42276 | 35.00 | 25.00 | 60.00 |
| Check #T1,581,817 dated September 29, 1983 | | | |
| Hugh H. & L. K. Bennett<br>RR 1, Delong Road<br>Lexington, Kentucky 40503 | 593.10 | 65.90 | 659.00 |
| Check #T2,352,604 dated June 4, 1984 | | | |
| Karla J. Bolte Buening<br>8700 Sunnybrook Drive<br>Evansville, Indiana 47711 | 7.71 | 25.00 | 32.71 |
| Check #T7,774,718 dated June 11, 1979 | | | |
| Ernest L. Simmons<br>167 Dana Court<br>Glasgow, Kentucky 42141 | 12.80 | 25.00 | 7.80 |
| Check #G7,414,584 dated April 16, 1981 | | | |
| W. L. Quisenberry<br>28 Hill Street<br>Winchester, Kentucky 40391 | 70.85 | 25.00 | 95.85 |
| Check #T1,508,583 dated June 7, 1983 | | | |
| Calvin Jones<br>1915 Heaton<br>Lousville, Kentucky 40216 | 584.80 | 64.98 | 649.78 |
| Check #T6,939,771 dated June 7, 1978 | | | |
| Kanah & J. Johnson<br>4624 Beaver Road<br>Louisville, Kentucky 40207 | 49.14 | 25.00 | 74.14 |

| | | | |
|---|---|---|---|
| Check #G9,091,294 dated June 27, 1983 | | | |
| John F. Crum<br>Crum Motor Sales, Inc.<br>S. Main Street<br>Inez, Kentucky 41224 | 472.50 | 52.50 | 525.00 |
| Check #G9,186,294 dated September 16, 1983 | | | |
| John F. Maley<br>J-Mar Services<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 13,500.00 | 1,500.00 | 15,000.00 |
| Check #P8,402,090 dated March 10, 1981 | | | |
| W. A. Fitzgerald, Pres.<br>Fitzgerald Drugs<br>831 Louisville Road<br>Frankfort, Kentucky 40601 | 187.61 | 25.00 | 212.61 |
| Check #T4,591,656 dated June 16, 1975 | | | |
| Crystallie C. Allen<br>1910 Old Trenton Road<br>Clarksville, Tenn. 37040 | 3.00 | 25.00 | 28.00 |
| Check #G6,758,141 dated June 30, 1980 | | | |
| John F. Maley<br>J-Mar Services<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 84.60 | 9.40 | 94.00 |
| Check #T2,385,404 dated June 13, 1972 | | | |
| Robert G. Simpson III<br>739 Starks Building<br>Louisville, Kentucky 40202 | 2.83 | 25.00 | 27.83 |
| Check #T9,652,670 dated July 6, 1981 | | | |
| Hershel & L. B. Tipton<br>235 McDowell Road<br>Lexington, Kentucky 40502 | 727.93 | 80.88 | 808.81 |
| Check #T0,591,920 dated June 3, 1982 | | | |
| Allan Gajadhar<br>9009 Hurstwood Court<br>Louisville, Kentucky 40222 | 2.72 | 25.00 | 27.72 |
| Check #P2,491,455 dated December 19, 1977 | | | |
| Betsey W. Meade<br>Route 4-509<br>Fulton, Kentucky 42041 | 123.33 | 25.00 | 148.33 |
| Check #P7,405,284 dated August 26, 1990 | | | |
| K. M. Washam<br>c/o Bank of McCreary County<br>P.O. Box 160<br>Whitley City, Kentucky 42653 | 225.70 | 25.07 | 250.77 |
| Check #P7,405,285 dated August 26, 1980 | | | |
| V. L. Washam<br>c/o Bank of McCreary County<br>P.O. Box 160<br>Whitley City, Kentucky 42653 | 217.10 | 25.00 | 242.10 |

| | | | |
|---|---|---|---|
| Check #T7,936,535 dated August 29, 1979 | | | |
| Marcus & A. Jones<br>c/o Allstates Collection Agency, Inc.<br>880 Sparta Court<br>Suite 203<br>Lexington, Kentucky 40504 | 45.00 | 25.00 | 70.00 |
| Check #P0,605,245 dated August 12, 1982 | | | |
| Debra Fannin<br>126 Merlin Place<br>Florence, Kentucky 41042 | 103.20 | 25.00 | 128.20 |
| Check #P1,099,485 dated March 7, 1983 | | | |
| John Gary Stringer<br>210 Auburn Avenue<br>Somerset, Kentucky 42501 | 128.99 | 25.00 | 153.99 |
| Check #G8,591,549 dated December 10, 1982<br>Check #G8,500,897 dated October 22, 1982 | | | |
| Dora Brann<br>315 Hallam Avenue<br>Erlanger, Kentucky 41018 | 32.80 | 50.00 | 82.80 |
| Check #T8,829,117 dated June 30, 1980 | | | |
| Bank One, Lexington, NA<br>Phillip W. Scott<br>Co-Executors of Phebe B. Shankland Estate<br>P.O. Box 575<br>Lexington, Kentucky 40586 | 577.80 | 64.20 | 642.00 |
| Check #G4,812,141 dated December 5, 1977<br>Check #G4,812,145 dated December 5, 1977 | | | |
| Harlan Paving & Construction Co.<br>c/o J-Mar Services, Inc.<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 18,413.91 | 2,045.98 | 20,459.89 |
| Check #A3,963,462 dated February 1, 1981 | | | |
| Brenda Oldfield<br>Box 156<br>White Oak, Kentucky 41474 | 210.00 | 25.00 | 235.00 |
| Check #T1,274,260 dated April 11, 1983 | | | |
| Mike Holt<br>3932 Clarks River Road<br>Paducah, Kentucky 42003 | 50.00 | 25.00 | 75.00 |
| Check #G6,560,434 dated March 17, 1980 | | | |
| Estate of Earl Willett<br>c/o Lloyd Willett<br>Box 197<br>Battletown, Kentucky 40104 | 41.15 | 25.00 | 66.15 |
| Check #T0,553,681 dated November 26, 1969 | | | |
| Dorsey W. & M.G. Allen<br>P.O. Box 126<br>Danville, Kentucky 40422 | 43.60 | 25.00 | 68.60 |

| | | | |
|---|---|---|---|
| Check #G0,165,921 dated May 9, 1969 | | | |
| Haworth & Associates<br>643 Teton Trail<br>Frankfort, Kentucky 40601 | 24,586.13 | 2,720.68 | 27,206.81 |
| Check #G8,597,934 dated November 15, 1982 | | | 842.16 |
| Check #G8,597,953 dated November 15, 1982 | | | 2,978.91 |
| Check #G8,597,954 dated November 15, 1982 | | | 3,409.71 |
| Check #G8,597,960 dated November 15, 1982 | | | 1,206.45 |
| Check #G8,597,992 dated November 15, 1982 | | | 1,311.42 |
| Fischer Packing Company<br>c/o J-Mar Services, Inc.<br>P.O. Box 2773<br>Tulsa, Oklahoma 74101 | 8,773.79 | 974.86 | 9,748.65 |

Section 2. The Finance and Administration Cabinet and the State Treasurer are hereby authorized to pay the following listed claims from the following funds:

(1) The Kentucky Retirement System is authorized to make payment form their retirement fund for State Treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

| | Payee | Treas Fee | Total Check |
|---|---|---|---|
| Check #R0,958,160 dated July 11, 1978 | 60.35 | 25.00 | 85.35 |
| Check #R0,970,144 dated August 9, 1978 | 60.35 | 25.00 | 85.35 |
| Check #R0,981,258 dated September 8, 1978 | 60.35 | 25.00 | 85.35 |
| Check #R1,274,314 dated October 7, 1980 | 70.00 | 25.00 | 95.00 |
| Check #R1,287,256 dated November 6, 1980 | 70.00 | 25.00 | 95.00 |
| Check #R1,299,899 dated December 10, 1980 | 70.00 | 25.00 | 95.00 |
| Check #R1,312,229 dated January 9, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,324,655 dated February 9, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,337,351 dated March 9, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,349,593 dated April 8, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,362,470 dated May 5, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,375,323 dated June 5, 1981 | 70.00 | 25.00 | 95.00 |
| Check #R1,381,787 dated July 8, 1981 | 75.70 | 25.00 | 100.70 |
| Check #R1,449,894 dated December 4, 1981 | 75.70 | 25.00 | 100.70 |
| Check #R1,462,944 dated January 11, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,476,384 dated February 9, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,489,945 dated March 4, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,503,270 dated April 6, 1982 | 75.70 | 25.00 | 100.70 |
| Check #R1,516,427 dated May 7, 1982 | 75.70 | 25.00 | 100.70 |
| | 1,340.95 | 475.00 | 1,815.95 |
| Marem E. Brown<br>3311 Kirby Avenue<br>Louisville, Kentucky 40211 | 1,340.95 | | |

(2) The Cabinet for Human Resources is authorized to make payment from their Unemployment Compensation Fund for State Treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of such checks, the sums hereinafter specified:

| | Payee | Treas Fee | Total Check |
|---|---|---|---|
| Check #U5,043,293 dated October 13, 1982 | | | |
| Freda M. Asseff<br>1028 Reasor Avenue<br>Louisville, Kentucky 40217 | 246.60 | 27.40 | 274.00 |

Check #U3,639,028 dated February 22, 1970

W. A. Edelen
6008 Newcut Road
Fairdale, Kentucky 40118 45.00 25.00 70.00

(3) The Transportation Cabinet is authorized to make payment from their Transportation Fund the following claim which has been duly audited and approved according to law, but has not been paid because of lapsing or insufficiency of former appropriations against which the claim was chargeable.

Gerald T. Kemper, Esq.
109 North Thomas Street
Owenton, Kentucky 40359 100,000.00

Section 3. The persons and companies named above having in good faith furnished the services, supplies, and materials enumerated, and the Commonwealth having received the benefits of same, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

**HB 579,** AN ACT relating to property taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (31-1/2) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, ***one hundred percent (100%)*** owned and ***one hundred percent (100%)*** financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents (15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15) upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto; and

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars ($100) of assessed value.

(6) Thirty cents (30) of the thirty-one and one-half cents (31-1/2) state tax rate on real property and thirty cents (30) of the forty-five cents (45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (30), as certified by the department of education, the direct payments shall be reduced proportionately.

(7) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(8) By July 1 each year, the revenue cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(9) In the event that the tax rate set by the cabinet as provided in subsection (8) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(10) An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

| Calendar Year | Rate per $100 of Assessed Value |
|---|---|
| 1982 | $.225 |
| 1983 | $.1125 |
| 1984 and after | $.001 |

(11) Effective on or after January 1, 1986, an ad valorem tax for state purposes of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials and in-process materials held for incorporation in finished goods held for sale in the regular course of business.

(12) An ad valorem tax for state purposes of one tenth of one-cent ($0.001) per one hundred dollars ($100) of assessed value shall be paid on all motor vehicles registered pursuant to the provisions of KRS 186.050(6).

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged

in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1-1/2) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4-1/2) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, ***one hundred percent (100%)*** owned and ***one hundred percent (100%)*** financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;

(12) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(13) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(14) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale;

(15) Motor vehicles registered pursuant to the provisions of KRS 186.050(6); and

(16) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.

The Committee Amendment No. 1 to **HB 579** is as follows:

Amend printed copy of **HB 579** on page 1, line 8, delete "***one***"

line 9, delete "***hundred percent (100%)***" and delete "***one hundred percent***"

line 10, delete "***(100%)***"

line 12, after the word "taxation," insert the following: "***except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing,***";

On page 8, line 20, delete "***one***"

line 21, delete "***hundred percent (100%)***" and delete "***one hundred percent***"

line 22, delete "***(100%)***"

line 24, after "103" insert the following: "***, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing***".

**HB 691,** AN ACT relating to the Kentucky Development Finance Authority.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 154.020 TO 154.180 IS CREATED TO READ AS FOLLOWS:

***For the purposes of complying with job creation and preservation criteria pertaining to loans and other financial assistance eligibility requirements under the provisions of KRS 154.020 to 154.180, any person applying to the Kentucky Development Finance Authority for a loan or other form of financial assistance shall be authorized to convert into a full-time equivalent the number of part-time employees proposed to be employed or to be preserved by the applicant as a result of the proposed financial assistance.***

**HB 738,** AN ACT relating to enterprise zones.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 154.690 is amended to read as follows:

(1) ***Notwithstanding any statutory provisions to the contrary, all tax exemptions provided in this section shall be granted for a five (5) year period, beginning on the date a qualified business receives its certification from the authority and ending on December 31 of the fifth year following certification. The authority may extend the tax exemptions provided in this section for an additional five (5) year period if a qualified business meets the following conditions:***

***(a) A qualified business shall provide the authority with written documentation, based on current information, and not based on information submitted by the business at the time of its certification, that the qualified business has fully met its commitment to create jobs or make a capital investment;***

***(b) A qualified business shall provide the authority with written documentation that, if employees were hired beyond the original commitment, those employees were hired from within the zone and met the criteria of subsection (5) of Section 2 of this Act; and***

***(c) A qualified business shall provide the authority with written documentation demonstrating how it has utilized the tax exemptions provided in this section to create new jobs or economic activity within the zone, and a statement explaining why the tax exemptions should be extended for the additional five (5) year period.***

***(2)*** The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

***(3)***[~~(2)~~] The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

***(4)***[~~(3)~~] The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

***(5)***[~~(4)~~] The provisions of KRS 138.460 notwithstanding, except for motor vehicles purchased by said qualified businesses for the purpose of being leased to a customer for a period greater than ninety (90) days, motor vehicles purchased and used by qualified businesses shall be exempt from the motor vehicle usage tax.

***(6)***[~~(5)~~] The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

***(7)***[~~(6)~~] For the purposes of KRS 154.660 to 154.705, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by section 172B of the Constitution.

***(8)***[~~(7)~~] The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property within a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

Section 2. KRS 154.655 is amended to read as follows:

As used in KRS 154.660 to 154.705, unless the context otherwise requires:

(1) "Authority" means the Enterprise Zone Authority of Kentucky;

(2) "Enterprise zone" means an area of the Commonwealth declared by the authority to be eligible for the benefits of KRS 154.660 to 154.705;

(3) "New business" means any person, corporation or other entity who after the time of designation of an enterprise zone becomes engaged in the active conduct of a trade or business within that zone;

(4) "Existing business" means any person, corporation or other entity who during the time of designation of an enterprise zone is already engaged in the active conduct of a trade or business;

(5) "Qualified business" means any new or existing business with at least fifty percent (50%) of its employees performing substantially all of their services within an enterprise zone:

(a) With a new business employing individuals from one (1) or more of the following three (3) categories constituting at least twenty-five percent (25%) of the business's employees:

1. Residents of an enterprise zone;

2. Individuals who have been unemployed for at least ninety (90) days prior to obtaining employment with the business;

3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to obtaining employment with the business; or

(b) With an existing business creating new activity within the enterprise zone of not less than a twenty percent (20%) increase in the number of employees ***that meet the requirements of subsection (5) of this section*** or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business;

(c) Any subsidiary or franchise of a new or existing business may apply to the authority for certification as a qualified business, if the subsidiary or franchise is site specific to the enterprise zone and maintains separate bookkeeping for business activity conducted within the enterprise zone;

(6) "Qualified property" means:

(a) Any tangible personal property located in an enterprise zone used predominantly by the taxpayer in the zone in the active conduct of a trade or business; and

(b) Any real property located in such zone which:

1. Was used predominantly by the taxpayer in the active conduct of a trade or business; or

2. Was the principal residence of the taxpayer on the date of the sale or exchange;

(c) Any interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business; and

(7) "Qualified employee" means any employee who works for a qualified business.

Section 3. KRS 154.670 is amended to read as follows:

(1) In addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988. In deciding which areas should be designated as enterprise zones the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority may remove designation of any area as an enterprise zone if such area no longer meets the criteria for designation as set out in KRS 154.660 to 154.705 or by regulation adopted by the authority pursuant to KRS 154.660 to 154.705, provided that no designation shall be removed less than ten (10) years from the date of original designation. If the authority removes the designation of any area as an enterprise zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to ***Section 1 of this Act*** [~~KRS 154.690 until December 31 of the twentieth year from the date of the original designation of the area as an enterprise zone~~].

The Committee Amendment No. 1 to **HB 738** is as follows:

Amend printed copy of **HB 738** on page 7, after line 10, by inserting a comma "," and adding the following:

"***but in no event shall the qualified businesses within the area retain certification and remain eligible beyond December 31 of the twentieth (20th) year from the date of the original designation of the area as an enterprise zone***"

The Committee on Appropriations and Revenue reported **HB 598** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 598,** AN ACT relating to sales and use taxes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding any other provisions of this chapter, morticians, undertakers and funeral directors are consumers of all items including caskets and vaults, which they use or consume in the performance of their services and the taxes imposed by this chapter apply at the time of the sale to the mortician, undertaker or funeral director.***

The Committee on Economic Development and Tourism reported **HB 742, HB 938, HCR 141** and **HCR 156** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 742,** AN ACT relating to airport construction and renovation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 152.052 is amended to read as follows:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the ***Cabinet for Economic Development*** [~~Commerce Cabinet~~]. The secretary of ***of the Cabinet for Economic Development*** [~~commerce~~] shall adopt administrative regulations for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement; and

(c) Degree and conditions of project payback.

(3) Prior to submission of an economic development bond project to the capital projects and bond committee, the secretary of ***the Cabinet for Economic Development*** [~~commerce~~] shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown and overall project description. This shall be submitted by the secretary to the committee. Subsequently, the secretary [~~of commerce~~] shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. ***Airport construction and renovation projects shall be eligible for funding under this section.*** The secretary of ***the Cabinet for Economic Development*** [~~commerce~~] shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the secretary of the Finance and Administration Cabinet, and the State Property and Buildings Commission, under the provisions of KRS 56.440 and 56.720.

(5) Following the approval by the secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the [~~Commerce~~] Cabinet ***for Economic Development*** with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(7) The [~~Commerce~~] Cabinet ***for Economic Development*** shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

Section 2. KRS 154.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Authority" means the Kentucky Development Finance Authority;

(2) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(3) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 to 65.300;

(4) "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(5) "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

(6) "Project" means an endeavor approved by the Cabinet for Economic Development and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports ***and airport renovations***; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydro electric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. ***Except for airport related facilities,*** project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(7) "Reclamation development fund" means the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land;

(8) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (6) of this section;

(9) "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project; and

(10) "State" means the Commonwealth of Kentucky.

Section 3. KRS 154.041 is amended to read as follows:

The authority shall have the powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this chapter, the purposes and objectives of the authority, and the powers delegated by other laws or executive orders, including but not limited to, the power to:

(1) Sue and be sued; to have a seal and alter the same at pleasure; to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and to make and amend bylaws;

(2) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a municipality or any agency of the federal, state, or a municipality, or to participate in any other way in any federal, state, or local government program;

(3) Make grants, loans, and investments; to guarantee and insure loans, leases, bonds, notes or other indebtedness, whether public or private; and to issue letters of credit;

(4) Construct, acquire by gift, purchase, installment purchase, or lease; and reconstruct, improve, repair, or equip a project or any part of a project;

(5) Borrow money and issue bonds and notes to finance part or all of the costs of a project, or of a loan pursuant to subsection (18) of this section for an export transaction, and to secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. The authority provided by this subdivision shall include, but is not limited to, issuing bonds and notes to acquire and install machinery, equipment, furnishings, and other personal property, notwithstanding that the authority does not own or propose to own or finance the building or land in or near to which the machinery, equipment, furnishings, and other personal property is or is to be located;

(6) Acquire or contract to acquire from any person, municipality, the federal or state government, or any agency of the foregoing, or otherwise, leaseholds, real or personal property or any interest in real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber leaseholds, real or personal property or any interest in real or personal property, as is convenient for the accomplishment of the purposes of this chapter and of the authority;

(7) Procure insurance against any loss in connection with the authority's property, assets, or activities;

(8) Invest any money of the authority, prior to the time it may be needed for the authority's programs, at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money;

(9) Engage personnel as necessary and engage the services of private consultants, managers, counsel, auditors, engineers, and scientists for rendering professional management and technical assistance and advice, payable out of any money of the authority legally available for this purpose;

(10) Charge, impose, and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges;

(11) Indemnify and procure insurance indemnifying any members of the authority from personal loss or accountability from liability asserted by a person on the bonds or notes of the authority or any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; by reason of acquisition, construction, ownership, or operation of a project; or by reason of any other action taken or the failure to act by the authority;

(12) Enter into a lease for the use or sale of a project. The lease may provide for options to purchase or renew;

(13) Mortgage or create security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the bonds or notes issued by the authority;

(14) Convey or release a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes, at any time the obligation of the lessee, purchaser, or borrower to make the payments prescribed shall remain fixed as provided in the agreement notwithstanding the conveyance or release, or as may otherwise be agreed with the holders of the bonds or notes;

(15) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans

and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property which was the subject of the mortgage at a foreclosure or other sale, acquire or take possession of the property and, in that event, complete, administer, pay the principal and interest on obligations incurred in connection with the property, and dispose of and otherwise deal with the property, in a manner as may be necessary or desirable to protect the interests of the authority;

(16) Create accounts and funds as required or permitted by law for the use and disbursement of assets of the authority;

(17) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority;

(18) Make loans to a financial institution to facilitate financing of all or part of an export related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(19) Administer the reclamation development fund;

(20) Promulgate administrative regulations governing its proceedings;

(21) ***Make loans for airport construction and renovation;***

***(22)*** Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this chapter, or other laws that relate to the purposes and responsibilities of the authority.

**HB 938,** AN ACT relating to the film industry.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

***(1) The Citizens Advisory Commission on Kentucky Films is created as an agency of state government, and it shall be attached to the Department of the Arts for administrative and budgetary purposes. The commission shall serve in an advisory capacity to the Department of the Arts in the planning and implementation of programs dealing with the film industry.***

***(2) The commission shall consist of nineteen (19) members appointed by the Governor, with the secretary of the Cabinet for Economic Development and the commissioner of the Department of the Arts serving ex officio. The other seventeen (17) members shall be appointed by the Governor on the basis of their interest in or relationship to the development of a film industry in Kentucky, one (1) member shall be designated as chairman. Members shall serve a term of four (4) years. Members of the commission shall receive twenty-five dollars ($25) per diem and necessary expenses for the performance of their duties.***

***(3) Meetings of the commission may be called by the chairman or by a majority of the commisson membership. A majority of the commission membership shall constitute a quorum for the purpose of conducting commission business.***

***(4) The chairman of the commission, subject to the prior written approval of the commission, shall appoint an executive director who shall serve as the chief operating officer of the commission. The executive director, subject to the approval of the chairman, shall hire personnel, prescribe their duties, and fix their compensation within the limitations imposed by law.***

***(5) The commission shall have all necessary and appropriate powers to carry out these responsibilities:***

***(a) Establishment of a close working relationship with film industry representatives in this country and abroad, if appropriate;***

***(b) Coordination of locational activities in Kentucky;***

***(c) Provision of liaison activities during actual film production;***

***(d) Performance of all appropriate research and background work related to determination of film industry plans and requirements; and***

***(e) Establishment of an aggressive promotional and informational effort designed to attract film producers to Kentucky.***

***(6) The commission shall have the cooperation and assistance of the Cabinet for Economic Development, the Department of the Arts, and all other state agencies. Such state agencies shall interaccount the commission for goods and services utilized by the commission.***

**HCR 141,** A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the feasibility of placing a Kentucky civil war monument at Vicksburg, Mississippi.

WHEREAS, the Vicksburg campaign began on March 29, 1863, and lasted until the surrender of the city on July 4, 1863; and

WHEREAS, many citizens of the Commonwealth of Kentucky participated in the Vicksburg campaign and paid the ultimate price; and

WHEREAS, the Confederate forces participating in the Vicksburg campaign included the 2nd Kentucky Infantry, 3rd Kentucky Mounted Infantry, 4th Kentucky Infantry, 6th Kentucky Infantry, 7th Kentucky Infantry, 8th Kentucky Mounted Infantry, 9th Kentucky Infantry, and the 1st Kentucky Brigade, commonly known as the Orphan's Brigade; and

WHEREAS, several notable Kentuckians served as Confederate officers during the Vicksburg campaign, including Major General John Breckinridge, General Lloyd Tilgham, General Ben Helm, General George Cosby, and Brigadier General Abraham Buford; and

WHEREAS, the Union forces participating in the Vicksburg campaign included the 7th Kentucky Regiment, 19th Kentucky Regiment, 22nd Kentucky Regiment, and the Pioneer Infantry; and

WHEREAS, several notable Kentuckians served as Union officers including Brigadier General Steven Burbridge, Brigadier General Theopolas Garrard, and Colonel William Landrum; and

WHEREAS, on February 21, 1899 President William McKinley signed PL 55-176 into law, permitting states who had troops involved in the Vicksburg campaign to place a monument in the Vicksburg National Military Park; and

WHEREAS, Kentucky has been allotted two sites in the Vicksburg National Military Park, one for Confederate forces and another for Union forces who participated in the Vicksburg campaign; and

WHEREAS, of all the states that had troops participating in the Vicksburg campaign only Kentucky and Tennessee have yet to place a monument in the Vicksburg National Military Park in honor of the sons, brothers, and fathers who served their causes with honor;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Task Force on Economic Development and Tourism is hereby directed to study the feasibility of placing a Kentucky monument in the Vicksburg National Military Park, and make a report of its findings.

Section 2. This report shall be submitted to the Legislative Research Commission no later than September 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000.00).

These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission

**HCR 156,** A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee of the Legislative Research Commission to study the state enterprise zone program during the 1990-91 interim.

WHEREAS, in 1982 in response to economic hardships across the Commonwealth, the General Assembly enacted the state enterprise zone program; and

WHEREAS, the members of this body sincerely felt that the enterprise zone program was an innovative approach to create new jobs, stimulate economic activity, attract private sector investment, and improve the quality of life of the far too many Kentuckians in economically depressed areas of the state; and

WHEREAS, during the inception of the enterprise zone program, it was assumed that offering reduced taxes to struggling businesses was integral to fostering economic activity; and

WHEREAS, it has been almost a decade since the enterprise zone program began and in recent weeks news articles have documented some very disturbing abuses related to the tax exemptions provided to businesses within an enterprise zone; and

WHEREAS, the General Assembly has not thoroughly reviewed this program since the enabling legislation was enacted and in light of the severe economic constraints facing the Commonwealth, it is only prudent to examine the effectiveness of the enterprise zone program, as well as determine the fiscal impact on state revenues;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Program Review and Investigations Committee of the Legislative Research Commission conduct an in-depth study of the state enterprise zone program during the 1990-91 interim.

Section 2. That the focus of this study shall be to determine the effectiveness of enterprise zones in creating economic activity across the Commonwealth and to determine the fiscal impact of the tax exemptions provided under KRS 154.690 on state revenues.

Section 3. This report shall be submitted to the Cities Committee no later than September 1, 1991.

Section 4. Staff services to be utilized in the study are estimated to cost $25,000. Staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HCR 156** is as follows:

Amend printed copy of **HCR 156** on page 2, line 11, after the word "Committee" insert "***and Economic Development and Tourism Committee***".

The Committee on Economic Development and Tourism reported **HB 428** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

### Calendar

**HB 771**, **HB 603**, **HB 855**, **HB 570**, **HB 688**, **HB 791**, **HB 165**, **HB 450**, **HB 485**, **HB 506**, **HB 542**, **HB 633**, **HB 670**, **HB 704**, **HB 709**, **HB 536**, **HB 732**, **HB 293**, **HB 461**, **HB 526**, **HB 676**, **HB 807**, **HCR 122**, **HJR 137**, **HCR 139**, **HCR 146**, **HCR 153** and **SB 229** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**HB 779**, **HB 122**, **HB 657**, **SB 94** and **SB 253** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 52** and **SB 176** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:25 p.m.)

### Orders of the Day

**SB 122**, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Floor Amendment No. 3 to **SB 122**. Agreed.

On the roll call the vote was yeas 73—Ackerson, Adkins, Allen, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Gedling, Gray, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Kerr, Layman, Lefevers, Lewis, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, Mullinix, Napier, Nelson, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Rapier, Reinhardt, Richards, Ridley, Riner, Scorsone, Siler, B. Smith, Strong, Stumbo, Todd, Turner, Ward, White, Worthington, Yates. Nays 17-Altman, Barrows, Clarke, Curd, Freibert, Geveden, Keith, Lear, LeMaster, Long, McElroy, Moberly, Pritchett, B. Richardson, Sheehan, R. Smith, Walker.

Floor Amendment No. 3 to **SB 122** was adopted.

Representative B. Richardson moved that **SB 122**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 3. (See March 7, 1990 roll call on **SB 122** - Appendix.)

**SB 122**, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 122**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 619**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **HB 619**. Agreed.

Representative Morris moved that **HB 619**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 7, 1990 roll call on **HB 619** - Appendix.)

**HB 619**, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 619**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 188** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **SB 188** be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 7, 1990 roll call on **SB 188** - Appendix.)

**SB 188** was passed and the title agreed to.

Representative Yates moved that the vote by which **SB 188** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 318** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved that **HB 318** be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See March 7, 1990 roll call on **HB 318** - Appendix.)

**HB 318** was passed and the title agreed to.

Representative Zimmerman moved that the vote by which **HB 318** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 444** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 444** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 7, 1990 roll call on **HB 444** - Appendix.)

**HB 444** was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 444** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 550**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of Committee Substitute to **HB 550**. Agreed.

Representative R. Smith moved that **HB 550**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 12. (See March 7, 1990 roll call on **HB 550** - Appendix.)

**HB 550**, by way of Committee Substitute, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 550**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 626** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HB 626** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 7, 1990 roll call on **HB 626** - Appendix.)

**HB 626** was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 626** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 697**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 697**. Agreed.

Representative Lear moved that **HB 697**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 7, 1990 roll call on **HB 697** - Appendix.)

**HB 697**, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 697**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 123**, with Committee Substitute and Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to **HB 123**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 123**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 2 to **HB 123**. Agreed.

Representative Burch moved that **HB 123**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See March 7, 1990 roll call on **HB 123** - Appendix.)

**HB 123**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 123**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 501** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 501** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 7, 1990 roll call on **HB 501** - Appendix.)

**HB 501** was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 501** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 73**, with Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 Title to **HB 73** is as follows:

Amend printed copy of **HB 73** by amending the title to read: "AN ACT relating to motor vehicles and declaring an emergency."

The Senate Amendment No. 2 to **HB 73** is as follows:

Amend printed copy of **HB 73** on page 3, after line 6, by inserting the following language: "Section 2. Whereas, citizens once denied a license will now be allowed to apply for a license, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Representative Todd moved that the House concur in Senate Amendment No. 2 to **HB 73**. Agreed.

Representative Todd moved that the House concur in Senate Amendment No. 1 Title to **HB 73**. Agreed; and the title was agreed to.

Representative Todd moved that **HB 73**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 7, 1990 roll call on **HB 73** - Appendix.)

**HB 73**, as amended by the Senate, was passed.

Representative Todd moved that the vote by which **HB 73**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 253**, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 253** is as follows:

Amend printed copy of **HB 253** on page 2, line 20, after the word "***numbers***" by inserting a comma ",";

On page 2, line 20, after the word "***numbers,***" by deleting the phrase "***and drivers license identification***"; and

On page 2, line 21, before the word "***of***" by deleting the word "***numbers***".

Representative Johnson moved that the House concur in Senate Floor Amendment No. 1 to **HB 253**. Agreed

Representative Johnson moved that **HB 253**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 7, 1990 roll call on **HB 253** - Appendix.)

**HB 253**, as amended by the Senate, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 253**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 373**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 373** is as follows:

Amend printed copy of **HB 373** on page 1, after the "." on line 7, by adding the following new language: "***If the employer is a corporation, the officers of the corporation shall be personally liable for the penalty imposed herein.***"

Representative Cyrus moved that the House concur in Senate Amendment No. 1 to **HB 373**. Agreed.

Representative Cyrus moved that **HB 373**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 76, Nays 15. (See March 7, 1990 roll call on **HB 373** - Appendix.)

**HB 373**, as amended by the Senate, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 373**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 417**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 417** is as follows:

Amend printed copy of **HB 417** on page 3, line 1, after "***amended***" and before ";" insert the following, "***, except that the counties of Clark, Estill, Garrard, Lincoln, Madison and Powell shall not be included as part of the "area" or "region", as defined herein, for the purposes of this Act.***"

Representative Stumbo moved that the House concur in Senate Amendment No. 1 to **HB 417**. Agreed.

Representative Stumbo moved that **HB 417**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 7, 1990 roll call on **HB 417** - Appendix.)

**HB 417**, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 417**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 68**, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Substitute to **SB 68**. Agreed.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 68**. Agreed.

Representative Morris moved the adoption of Committee Amendment No. 2 to **SB 68**. Agreed.

Representative A. Jones moved the adoption of Committee Amendment No. 3 to **SB 68**.

On the roll call the vote was yeas 50—Ackerson, Adkins, Altman, Ballard, Bentley, Blandford, Bronger, Brown, Bruce, Butler, Casebier, Castleman, L. Clark, P. Clark, Crupper, Deskins, Ford, Gray, Gregory, J. Harper, Hatcher, Heleringer, Hourigan, Johnson, A. Jones, Layman, Lewis, Lile, Little, Maggard, Mason, McBee, McElroy, Morris, Nelson, Nett, Northup, O'Brien, Overstreet, Priddy, B. Richardson, Ridley, Riner, Siler, R. Smith, Stokes, Todd, Ward, Yates, Zimmerman. Nays 41—Allen, Ark, Barrows, Blevins, Burch, Callahan, Cline, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Hancock, K. Harper, Jackson, T. Jones, Keith, Kerr, Lear, Lefevers, Long, Lyne, Mack, Moberly, Mullinix, Napier, Noe, Preston, Pritchett, Rapier, Reinhardt, P. Richardson, Scorsone, Sheehan, Strong, Stumbo, Turner, Walker, White.

Committee Amendment No. 3 to **SB 68** was adopted.

Representative B. Richardson moved the adoption of Committee Amendment No. 6 to **SB 68**. Agreed.

Representative Geveden moved the adoption of Committee Amendment No. 4 to **SB 68**.

Representative Bronger inquired whether Committee Amendment No. 4 to **SB 68** was germane to the Bill.

The Speaker ruled that Committee Amendment No. 4 to **SB 68** was germane to the Bill.

Representative Nett inquired whether Committee Amendment No. 4 to **SB 68** was a piggyback amendment.

The Speaker ruled that Committee Amendment No. 4 to **SB 68** was not a piggyback amendment.

Committee Amendment No. 4 to **SB 68** was rejected.

Representative Long moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 68**.

Representative Morris inquired whether Floor Amendment No. 1 to the Committee Substitute to **SB 68** was germane to the Bill.

The Speaker ruled that Floor Amendment No. 1 to the Committee Substitute to **SB 68** was not germane to the Bill.

Representative Donnermeyer moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 68**. Rejected.

Representative Lear moved the adoption of Committee Amendment No. 5 to **SB 68**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **SB 68**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 68**.

On the roll call the vote was yeas 46—Allen, Ark, Arnold, Ballard, Barrows, Blevins, Callahan, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Gedling, Geveden, Hancock, K. Harper, Hourigan, Jackson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Long, Lyne, Mack, Maggard, McBee, Mullinix, Noe, Noland, Preston, Rapier, Reinhardt, P. Richardson, Ridley, Scorsone, Sheehan, R. Smith, Stumbo, Walker, White, Zimmerman. Nays 46—Ackerson, Adkins, Altman, Bentley, Blandford, Bronger, Brown, Bruce, Butler, Casebier, Castleman, L. Clark, P. Clark, Deskins, Ford, Gray, Gregory, J. Harper, Hatcher, Heleringer, Johnson, A. Jones, Lewis, Lile, Little, Mason, McElroy, Moberly, Morris, Napier, Nett, Northup, O'Brien, Overstreet, Priddy, Richards, B. Richardson, Riner, Siler, Stokes, Strong, Todd, Turner, Ward, Worthington, Yates.

Floor Amendment No. 3 to the Committee Substitute to **SB 68** was rejected.

Representative Morris moved that **SB 68**, by way of Committee Substitute as amended, be passed.

Representative Moberly moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **SB 68**.

On the roll call the vote was yeas 48—Adkins, Ark, Arnold, Barrows, Bentley, Burch, Callahan, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Gedling, Geveden, Hancock, K. Harper, Hourigan, Jackson, Johnson, T. Jones, Keith, Kerr, Lear, Lefevers, Little, Long, Mack, Maggard, Mason, Moberly, Mullinix, Napier, Noe, Noland, Preston, Pritchett, Rapier, Reinhardt, P. Richardson, Scorsone, Sheehan, B. Smith, Stumbo, Walker, White. Nays 40—Ackerson, Altman, Ballard, Blandford, Blevins, Bronger, Brown, Bruce, Butler, Casebier, Castleman, L. Clark, P. Clark, Ford, Gray, Gregory, J. Harper, Hatcher, Heleringer, A. Jones, Lewis, Lile, McElroy, Morris, Nelson, Nett, Northup, O'Brien, Priddy, Richards, B. Richardson, Ridley, Riner, R. Smith, Strong, Todd, Turner, Ward, Yates, Zimmerman.

Floor Amendment No. 7 to the Committee Substitute to **SB 68** was adopted.

Representative Morris moved that **SB 68**, by way of Committee Substitute as amended, be passed.

Representative Ark moved that **SB 68** be laid on the table.

On the roll call the vote was yeas 35—Allen, Altman, Ark, Arnold, Ballard, Blevins, Callahan, Clarke, Crupper, Curd, Farrow, Geveden, Hancock, K. Harper, Jackson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Long, Lyne, Mack, Moberly, Mullinix, Noe, Noland, Rapier, Reinhardt, P. Richardson, Scorsone, Sheehan, Walker, White. Nays 50—Ackerson, Blandford, Bronger, Brown, Bruce, Butler, Casebier, Castleman, L. Clark, P. Clark, Cyrus, Deskins, Ford, Freibert, Gray, J. Harper, Hatcher, Heleringer, Johnson, A. Jones, Lewis, Lile, Maggard, Mason, McBee, McElroy, Morris, Nelson, Nett, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Richards, B. Richardson, Riner, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Ward, Worthington, Yates, Zimmerman.

The motion that **SB 68** be laid on the table was rejected.

On the roll call the vote was: Yeas 46, Nays 46. (See March 7, 1990 roll call on **SB 68** - Appendix.)

**SB 68** was defeated.

### Message from the Governor

Announcing the veto of **HB 314**.

The veto message on **HB 314** is as follows:

"Pursuant to the authority vested in me by Section 88 of the Constitution of the Commonwealth of Kentucky, I, Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky, do hereby veto House Bill 314.

This bill represents a complex and comprehensive overhaul of KRS Chapter 56 relating to state real property lease acquisition practices. It creates an elaborate web of new rules and procedures which thrust a substantial additional workload on personnel in all branches of state government. Costs and expenses allocable to lease administration will rise and in certain cases direct rental payments will increase due to the constraints imposed by this bill. No report or analysis projecting how any monetary savings will be achieved has been prepared. The fact is this bill will cost, not save, the taxpayers money.

At a minimum, this legislation will result in an annual expenditure of $175,000 in additional personnel costs to comply with the reporting, auditing, and reviewing processes mandated by the bill, with no concomitant savings realized in lease rental payments.

No oversight, investigative or adjudicative body has been presented any evidence about any leasing project that proves or infers any lease currently in effect would have been awarded differently if **HB 314** had been in effect at the time. This proves that expensive and time consuming process and procedures imposed by the bill are not economically justified. Dozens of lease files were examined by the interim committee and staff last summer. No problems were reported. Neither the Capital Construction and Bond Oversight Committee nor any other legislative committee has taken the position of record that any present lease should not have been awarded or was cost excessive or programmatically unjustified.

All records pertaining to leases are public records available for public inspection and subject to intense scrutiny, and all cases in excess of $200,000 per year are reported to the Capital Projects and Bond Oversight Committee.

There is absolutely no need to tamper with a law that is working as well as the current state leasing law is."

### Motions, Petitions and Communications

Representative Hancock moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

**HR 195**, by Representative Hancock: A RESOLUTION adjourning the House of Representatives in honor of Marjorie Carter "Pippin" Roberts upon the occasion of her fiftieth birthday.

Representative Hancock moved the adoption of the following **HR 195**:

**HR 195,** A RESOLUTION adjourning the House of Representatives in honor of Marjorie Carter "Pippin" Roberts upon the occasion of her fiftieth birthday.

WHEREAS, Marjorie Carter "Pippin" Roberts, a native of Nonesuch, Woodford County, Kentucky, was born March 7, 1940; and

WHEREAS, Marjorie Carter "Pippin" Roberts is no stranger to the legislative process, being employed by the Kentucky General Assembly during the 1970, 1972, 1974, and 1976 regular sessions and the 1976 special session; and

WHEREAS, Marjorie Carter "Pippin" Roberts demonstrates her professional expertise, good judgment, and enthusiasm daily, and she has become an indispensable arm to the Legislative Research Commission, and to the members of the Kentucky General Assembly; and

WHEREAS, Marjorie Carter "Pippin" Roberts has graced the halls of our glorious Capitol for many years, and those who have had the good fortune of knowing her and working with her have benefitted from her generous soul and kindhearted manner; and

WHEREAS, Marjorie Carter "Pippin" Roberts is the loving wife of James R. Roberts, and the devoted mother of Jane Elizabeth (Jebbie) Barbour, Roni-Anne Barbour, and Benjamin Rell Roberts; and

WHEREAS, Marjorie Carter "Pippin" Roberts will celebrate her fiftieth birthday on Wednesday, March 7, 1990;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this august body does hold true its affection for and appreciation to Marjorie Carter "Pippin" Roberts for her kindness and benevolent manner, and recognizes that the light of her cheerful face communicates a happy spirit that is comparable only to a sunny day.

Section 2. That this august body does hold Marjorie Carter "Pippin" Roberts in the highest esteem, and wishes to her a most happy and joyous fiftieth birthday on Wednesday, March 7, 1990.

Section 3. That when the House of Representatives adjourns this day, Wednesday, March 7, 1990, it does so in honor of Marjorie Carter "Pippin" Roberts upon the occasion of her fiftieth birthday.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Marjorie Carter "Pippin" Roberts, Rose Hill Farm, 1155 Peaks Mill Road, Frankfort, Kentucky 40601.

**HR 195** was adopted by voice vote.

Representative Stumbo moved that **SB 78** be recommitted to the Committee on Education. Agreed.

Representative Stumbo moved that **HB 939** be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Introduction of Bills and Resolutions

**HR 196**, by Representatives Reinhardt, Gedling, Altman, Crupper, Farrow, Arnold, Lyne, Bentley, Kerr, Keith, Curtsinger, Todd, Richards, B. Smith, McElroy, Mullinix and Bruce: A RESOLUTION recommending increased funding for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Energy: **SB 230**, **HB 936**.

Agriculture and Small Business: **SB 240**.

Banking and Insurance: **HB 860**, **HB 867**, **HB 900**, **HB 912**, **SB 273**, **SB 315**.

Elections and Constitutional Amendments: **HB 764**.

Health and Welfare: **HJR 173**, **SB 246**.

Appropriations and Revenue: **HB 521**, **HB 919**.

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Health and Welfare: **HB 254**, **HB 541**.

Representative Gedling moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that he be recorded as voting "nay" on **SB 68**. Agreed.

Representative A. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative A. Jones moved that he be recorded as voting "yea" on **HB 164**. Agreed.

Representative Riner moved that **HB 668** be withdrawn. Agreed.

### Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 146**, by Representative Gedling:

Amend printed copy of **SB 146** on page 1, line 17, by deleting "***twenty-five***" and inserting in lieu thereof "***seventy-five***" and by deleting "***($25)***" and inserting in lieu thereof "***($75)***";

And on page 3, line 6, by deleting "***twenty-five***" and inserting in lieu thereof "***seventy-five***" and by deleting "***($25)***" and inserting in lieu thereof "***($75)***".

Floor Amendment No. 4 to **SB 88**, by Representative Scorsone:

Amend printed copy of **SB 88** on page 7, line 16, by inserting the subsection "***(1)***" preceding the word "***When***".

And on page 7, between lines 21 and 22, by adding the following new subsection:

"***(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the provisions of a designation executed by a grantor under Section 7 of this Act on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a grantor as long as such physician, nurse staff member or employee immediately informs the grantor and the surrogate of such refusal. No physician or health care facility which refuses to comply with the designation of a grantor shall impede the transfer of the grantor to another physician or health care facility which will comply with the designation. The transferring attending physician and health care facility shall supply the grantor's medical records and any other information or assistance, as may***

***be medically necessary for the continued care of the grantor, to the receiving physician and health care facility.***

***(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member or employee who refuses to comply with the designation of a grantor executed under Section 7 of this Act, as long as the physician, nurse staff member or employee complies with the requirements of subsection (1) of this Section regarding grantor notification and grantor transfer.***"

Floor Amendment No. 5 to **SB 88**, by Representative Donnermeyer:

Amend printed copy of **SB 88** on page 5, by deleting lines 10 and 11 in their entirety;

And on page 5, line 12, by relettering paragraph "***(c)***" as paragraph "***(b)***".

Floor Amendment No. 1 to **HB 465**, by Representative Ridley:

Amend printed copy of **HB 465** on page 9, after line 5, add the following new section:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

***If a taxpayer owns the surface estate and the mineral estate thereunder, the combination of the valuation of the surface estate and the valuation of the mineral estate shall not exceed the value of the fee simple interest in the property as determined by valuation methods commonly in use by property valuation administrators and the Revenue Cabinet.***".

Floor Amendment No. 1 to **HB 558**, by Representative Ark:

Amend printed copy of **HB 558** on page 1, by deleting lines 11 through 17 in their entirety; and

On page 1, line 18, by deleting "***(3)***" and inserting "***(2)***" in lieu thereof.

Floor Amendment No. 1 to **HB 534**, by Representative Lear:

Amend printed copy of **HB 534** on page 4, lines 11 through 14, after the "***(b)***" on line 11, by deleting said lines in their entirety.

On page 4, line 15, by deleting the "***(c)***".

Floor Amendment No. 1 to **HB 700**, by Representative Lear:

Amend printed copy of **HB 700** on page 2, line 13, after the word "section", by deleting the words "***and the review of the product of these services***";

On page 3, line 19, after the word "section" by deleting the words "***and the review of the***" and on line 20, by deleting the words, "***product of these services***"; and

On page 4, line 17, by deleting Section 2 in its entirety and renumbering all subsequent sections accordingly.

Floor Title Amendment to **HB 15**, by Farrow:

Amend printed copy of **HB 15** by amending the title to read as follows:

"AN ACT relating to elections.".

Floor Amendment No. 1 to the Committee Substitute to **HB 15**, by Representative Farrow:

Amend printed copy of HCS to **HB 15** on page 5, line 20, after the word "***city***" by inserting the words "***or county***"; and

On page 5, line 23, after "***election.***" and before the word "Any" by inserting the following: "***However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, he shall be eligible as a candidate for the same office if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.***";

On page 19, line 18, after the word "***city***" by inserting the words "***or county***"; and

On page 19, line 21, after "***election.***" by inserting the following: "***However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, he shall be eligible as a candidate for the same office if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 189**, by Representative White:

Amend printed copy of HCS to **HB 189** on page 5, lines 9 and 10, by deleting the words "***and the licensed and practicing optometrist***".

Floor Amendment No. 1 to **HB 626**, by Representative Farrow:

Amend printed copy of **HB 626** on page 1, after line 11 and before line 12; and on page 2, after line 2 and before line 3; and on page 2, after line 14 and before line 15; and on page 2, after line 26 by inserting the following:

"***(3) Benefits for coverage of any bone or joint of the face, neck or head shall be limited to a lifetime maximum of eight thousand dollars ($8,000) per person for surgery, and two thousand dollars ($2,000) for non-surgical treatment.***":

Floor Amendment No. 1 to **HB 428**, by Representative B. Smith:

Amend printed copy of **HB 428** on page 2, line 7, by deleting "***and an executive committee***"; and

On page 8, by deleting "***by the executive committee and the executive director***"; and

On page 2, line 19, by deleting "***development***" and by putting in its place "***foundation***" and by adding, after "***board***" "***or equivalent***"; and

On page 2, line 20, by deleting "***the city of***"; and

On page 2, line 21, by deleting "***the city of***"; and

On page 2, line 23, by deleting lines 23 through 26 in their entirety; and

On page 3, line 1, by replacing "***(3)***" with "***(2)***"; and

On page 3, line 14, by replacing "***(4)***" with "***(3)***"; and

On page 3, line 17, by replacing "***(5)***" with "***(4)***"; and

On page 3, line 19, by replacing "***(6)***" with "***(5)***"; and

On page 3, line 24, by replacing "***(7)***" with "***(6)***"; and

On page 4, line 3, by replacing "***(8)***" with "***(7)***"; and

On page 4, line 5, by deleting "***appoint an executive committee,***"; and

On page 4, line 9, by replacing "***(9)***" with "***(8)***"; and

On page 4, line 12, by replacing "***(10)***" with "***(9)***"; and

On page 4, line 15, by replacing "***(11)***" with "***(10)***"; and

On page 4, line 23, by deleting lines 23 through 26 in their entirety; and

On page 5, by deleting lines 1 through 20 in their entirety.

Floor Amendment No. 6 to the House Committee Substitute No. 2 to **HB 115**, by Representative Stumbo:

Amend printed copy of HCS/2 to **HB 115** on page 11, after line 2, and before line 3, by inserting the following new sections:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***(1) Any person who sells any alcoholic beverage, as defined in KRS 241.010, for consumption on or off the premises shall post, in a conspicuous place on the premises, a sign which clearly reads "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS." The warning sign shall be posted in any place where alcoholic beverages are sold, including but not limited to food service establishments, retail food markets or any holder of a distilled spirits, wine or malt beverage package or drink license issued pursuant to KRS Chapter 243.***

***(2) The Alcoholic Beverage Control Commission shall produce or obtain warning signs as required by subsection (1) of this Act for distribution to persons required to post the signs.***";

Section 7. KRS 222.990 is amended to read as follows:

(1) Any licensee or other person operating a private facility who fails to furnish any such data, statistics, schedules or information as required, or who files fraudulent returns thereof shall be subject to a fine of not more than five hundred dollars ($500).

(2) Whoever knowingly establishes or maintains a private facility without a license granted pursuant to this section shall, for a first offense, be subject to a fine of not more than five hundred dollars ($500) and for each subsequent offense by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than two (2) years, or both.

(3) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place shall, for a first or second offense be fined not less than twenty-five dollars ($25).

(4) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place, shall for a third or subsequent offense within a twelve (12) month period be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or be imprisoned in the county jail for not less than five (5) nor more than ninety (90) days, or both. Subsequent offenses not within the twelve (12) month proscription of this section shall be dealt with under subsection (3) of this section.

(5) In addition to any other penalty prescribed by law for violation of subsection (1) and (2) of KRS 222.202 the court may sentence the person to an alcohol or substance abuse treatment or education program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of up to six (6) months and the program shall provide an assessment to the court of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment or education program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may upon written recommendation to the court by the administrator of the program, be released by the court prior to the expiration of the six (6) month period.

(d) Failure to complete the treatment program or to pay the amount specified by the treatment program shall constitute contempt of court and the court may, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of treatment or education program.

***(6) A person guilty of a violation of Section 6 of this Act shall be issued a warning for the first offense and shall be fined not more than ten dollars ($10) for each succeeding offense.***"; and

On page 11, line 3, by renumbering "Section 6" as "Section 8".

Floor Amendment No. 7 to the House Committee Substitute No. 1 to **HB 115**, by Representative Stumbo:

Amend printed copy of HCS to **HB 115** on page 22, after line 19, and before line 20, by inserting the following new sections:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***(1) Any person who sells any alcoholic beverage, as defined in KRS 241.010, for consumption on or off the premises shall post, in a conspicuous place on the premises, a sign which clearly reads "WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS." The warning sign shall be posted in any place where alcoholic beverages are sold, including but not limited to food service establishments, retail food markets or any holder of a distilled spirits, wine or malt beverage package or drink license issued pursuant to KRS Chapter 243.***

***(2) The Alcoholic Beverage Control Commission shall produce or obtain warning signs as required by subsection (1) of this Act for distribution to persons required to post the signs."***

Section 10. KRS 222.990 is amended to read as follows:

(1) Any licensee or other person operating a private facility who fails to furnish any such data, statistics, schedules or information as required, or who files fraudulent returns thereof shall be subject to a fine of not more than five hundred dollars ($500).

(2) Whoever knowingly establishes or maintains a private facility without a license granted pursuant to this section shall, for a first offense, be subject to a fine of not more than five hundred dollars ($500) and for each subsequent offense by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than two (2) years, or both.

(3) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place shall, for a first or second offense be fined not less than twenty-five dollars ($25).

(4) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place, shall for a third or subsequent offense within a twelve (12) month period be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or be imprisoned in the county jail for not less than five (5) nor more than ninety (90) days, or both. Subsequent offenses not within the twelve (12) month proscription of this section shall be dealt with under subsection (3) of this section.

(5) In addition to any other penalty prescribed by law for violation of subsection (1) and (2) of KRS 222.202 the court may sentence the person to an alcohol or substance abuse treatment or education program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of up to six (6) months and the program shall provide an assessment to the court of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment or education program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may upon written recommendation to the court by the administrator of the program, be released by the court prior to the expiration of the six (6) month period.

(d) Failure to complete the treatment program or to pay the amount specified by the treatment program shall constitute contempt of court and the court may, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of treatment or education program.

***(6) A person guilty of a violation of Section 9 of this Act shall be issued a warning for the first offense and shall be fined not more than ten dollars ($10) for each succeeding offense.***"; and

On page 22, line 20, by renumbering "Section 9" as "Section 11".

Floor Amendment No. 1 to **HB 146**, by Representative Hancock:

Amend printed copy of **HB 146** on page 1, line 4, by deleting "***Interim Joint Committee on Appropriations and Revenue***" and inserting in lieu thereof "***Legislative Program Review and Investigations Committee of the Kentucky General Assembly***".

On page 4, line 23, by deleting "]" and striking through the words on the line.

On Page 4, by striking through the words on lines 24, 25 and 26.

On page 4, line 26, by placing "]" after "."

On page 4, line 23, by inserting after "***(6)***" and before "[" the following: "***The Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall have the authority to review and oversee the operations and programs of the Kentucky Housing Corporation in its entirety.***"

Floor Amendment No. 2 to **HB 146**, by Representative Hancock:

Amend printed copy of **HB 146** on page 4, line 23, by deleting "]" and striking through the words on the line.

On Page 4, by striking through the words on lines 24, 25 and 26.

On page 4, line 26, by placing "]" after "."

On page 4, line 23, by inserting after "***(6)***" and before "[" the following: "***The Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall have the authority to review and oversee the operations and programs of the Kentucky Housing Corporation in its entirety.***"

Floor Amendment No. 3 to **HB 146**, by Representative Barrows:

Amend printed copy of **HB 146** on page 1, beginning on line 3, by deleting "***, following review and comment by the Interim Joint Committee on Appropriations and Revenue, may***".

On page 1, line 5, by deleting "[", "]", and strike throughs.

On page 1, beginning on line 7, by deleting "***, so long as the cumulative outstanding indebtedness of the corporation's bonds does not exceed one billion one hundred twenty-five million dollars ($1,125,000,000), in order***".

On page 1, lines 10 and 11, remove the brackets and strike throughs.

On page 1, beginning on line 12, by deleting "***. If the committee does not review or comment on a proposed bond issue within sixty (60) days after receipt of the proposal, the proposal shall be considered reviewed and commented upon by the committee***".

On page 1, on lines 16 and 17, by deleting the brackets and strike throughs.

On page 1, lines 18, 19 and 20, by deleting the brackets and strike throughs.

On page 2, lines 1 through 7, by deleting the bracket and strike throughs.

On page 2, line 18, by deleting "***(3)***" and deleting the brackets and strike throughs.

On page 4, line 8, by deleting "***(4)***" and deleting the brackets and strike throughs.

On page 4, line 15, by deleting "***(5)***" and deleting the brackets and strike throughs.

On page 4, line 23, by deleting "***(6)***" and deleting the brackets and strike throughs.

On page 4, line 23, by bracketing and striking through the words "Bonds or notes may be issued under the".

On Page 4, by bracketing and striking through the words on lines 24, 25 and 26 and inserting in lieu thereof: "***The Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall have the authority to review and comment on bond and note issuances and to oversee the operations and programs of the Kentucky Housing Corporation in its entirety.***"

On page 5, line 1, by deleting "***(7)***" and deleting the brackets and strike throughs.

Floor Amendment No. 1 to **SB 72**, by Representative Barrows:

Amend printed copy of **SB 72** on page 13, line 1, by deleting the word "***recognized***"; and

On page 13, line 2, after "***institution***" and before the period, by inserting the following: "***recognized under Section 501 (c) (3) of the Internal Revenue Code, as amended, and in which the candidate does not currently hold, and has not previously held, any office, position, affiliation, or personal interest, either direct or indirect, which may result in a personal economic benefit to the candidate***".

Floor Amendment No. 1 to **HB 807**, by Representative Brown:

Amend printed copy of **HB 807** on page 10, line 25, by deleting the words "***three (3)***" and replacing them with "***six (6)***".

Floor Amendment No. 7 to the Committee Substitute to **HB 639**, by Representative Johnson:

Amend printed copy of HCS to **HB 639** on page 3, line 26, to delete in its entirety, and to insert in lieu thereof the following:

"***all child support orders being established, modified, or enforced by the Cabinet for Human Resources, the court shall provide for health care coverage for dependent children if reasonable under all the circumstances; if health care coverage is not presently available, the order shall provide for health care coverage at such time as it becomes reasonably available.***"; and

On page 4, lines 1 through 5, to delete in their entirety.

Floor Amendment No. 8 to the Committee Substitute to **HB 639**, by Representative Johnson:

Amend printed copy of HCS to **HB 639** on page 1, line 10, following "***parent***" to add "***, grandparent or anyone having custody of a child with a child support order,***"; and

On page 11, line 17, following "***parent***" to add "***, grandparent or anyone having custody of a child with a child support order,***".

Floor Amendment No. 9 to the Committee Substitute to **HB 639**, by Representative Johnson:

Amend printed copy of HCS to **HB 639** on page 27, line 15, to delete "***for a period of one (1) year from the effective***"; and

On page 27, line 16, to delete "***date of this Act***".

Floor Amendment No. 1 to the Committee Substitute to **HB 536**, by Representative Heleringer:

Amend printed copy of HCS to **HB 536** on page 12, after line 16, by adding the follow new section:

"Section 4. KRS 230.240 is amended to read as follows:

(1) In addition to the employees referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employees deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by ***administrative regulation*** [~~rule~~] the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate ***administrative*** [~~rules and~~] regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission ***may*** [~~is authorized to~~] acquire, operate and maintain, or [~~to~~] provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS ***Chapter*** 230 [~~.210 to 230.360~~] in such manner and in such proportions as the commission may by ***administrative regulation*** [~~rule~~] provide.

(3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which ***the*** [~~said~~] employees are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations licensed under KRS ***Chapter*** 230 [~~.210 to 230.360~~] in the manner as the commission may, by ***administrative regulation*** [~~rule~~], provide. The employees referred to in this section shall be deemed employees of the commission, and ***shall be*** [~~are~~] paid by the licensee or association for convenience only.

(4)***(a) An association shall grant to its racing officials fifty dollars ($50) in unvouchered expense money per work day for each thoroughbred race meeting at which the racing official is actually utilized or employed, if the principal residence of the racing official is fifty (50) miles or more away from the thoroughbred race meeting.*** Each person, as a condition precedent to the privilege of receiving a license [~~under KRS 230.210 to 230.360~~] to conduct a thoroughbred race meeting ***under KRS Chapter 230***, shall be deemed to have agreed that it ***shall*** [~~will~~] pay ***the*** [~~such~~] expenses and compensation as provided in this section and as may be actually and reasonably incurred.

***(b) The unvouchered expense money specified in subsection (4)(a) of this section shall be paid to the racing officials from revenue received by the racing association from simulcasting and intertrack wagering.***

***(c) "Racing official" means association steward, assistant racing secretary, placing judge, patrol judge, clerk of the scales, timer, claims clerk, paddock judge, jockey room custodian, outrider, and starter.***"; and

By renumbering subsequent subsections accordingly.

The Clerk announced the following meetings:

The Committee on Transportation, upon adjournment.

The Budget Review Subcommittee on Corrections, upon adjournment.

The Budget Review Subcommittee on Transportation, 12 noon, March 8, 1990.

The Clerk announced that the meeting of the Budget Review Subcommittee on Natural Resources on March 8, had been cancelled.

## Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 8, 1990.

On the roll call the vote was yeas 73—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Castleman, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, Keith, Layman, Lear, Lefevers, Lyne, Mack, Mason, McBee, McElroy, Moberly, Mullinix, Nett, Noland, Northup, O'Brien, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, Riner, Scorsone, Sheehan, Siler, B. Smith, Stokes, Strong, Stumbo, Todd, Turner, Ward, White, Worthington, Yates, Zimmerman. Nays 5—L. Clark, Curtsinger, LeMaster, Lewis, Lile.

The motion to adjourn was adopted.

## THURSDAY, MARCH 8, 1990

## FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 7, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 112**, **SB 290**, **SB 305**, **HB 46** with Senate Amendments, **HB 241** with Senate Amendment, **HB 98**, **HB 264** and **HB 436**.

Message received on **HB 112**: The Senate has refused to recede from its Committee Amendment No. 2 to **HB 112** and is respectfully returning same to this Honorable Body asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senator Ford, Chairman; Senators LeMaster and Trevey.

### Report of Committees

The Committee on Rules reported **HB 407**, **HB 653**, **HB 485**, **HB 536**, **HB 542**, **HB 732**, **HB 807**, **HB 855**, **HCR 122**, **HJR 137**, **HCR 146** and **HCR 153** have been posted for passage in Orders of the Day, March 9, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 9, 1990: **HB 122**, **HB 657**, **HB 779**, **SB 253**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 670**.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 42**, **HB 720**, **HB 403**.

Agriculture and Small Business: **HB 828**, **SB 216**.

### Report of Committees

The Committee on Business Organizations and Professions reported **HB 800** with Committee Amendment attached thereto, **HB 803**, **HB 911** and **SB 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 800**, AN ACT relating to optometry.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

***(1) The board may investigate any suspected grounds for disciplinary action and may hire persons to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the board of any person within the jurisdiction of the Commonwealth of Kentucky and to require production of any record, document or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary.***

***(2) The board may initiate disciplinary proceedings based upon information within its knowledge or received from other persons. A majority of the board members may direct the issuance of a complaint; in such instances, the board shall prepare a written complaint which shall be signed by the chairman of the board and which shall contain sufficient information to apprise the named optometrist of the nature of the charges. A complaint shall be delivered to the charged optometrist by personal delivery or by certified mail to the optometrist's last known address. The optometrist shall file a response within twenty (20) days***

*after the date of delivery. The board may then review the optometrist's response, and dismiss the complaint, issue a private and confidential reprimand to the optometrist, or schedule further proceedings.*

*(3) If the board decides to schedule the matter for further proceedings, it shall assign the matter for full hearing by the board, or if the board directs, by any individual member of the board or a hearing officer. The board may schedule such prehearing conferences as it deems necessary. The board shall schedule a hearing no sooner than twenty (20) days after service upon the charged optometrist of the notice of date, time and place for the hearing.*

*(4) The board and the charged optometrist may be represented by counsel at the hearing. A record of the proceedings shall be made. The board, any of its members, or the hearing officer may administer oaths, rule on questions of admissibility of evidence, accept the depositions of witnesses, and compel the appearance of persons by subpoena. The board may petition the courts of the Commonwealth to punish as contempt the failure of a person or entity to obey a subpoena or other process, or any contemptuous conduct directed to the board.*

*(5) Upon completion of the hearing, the board, its presiding member or the hearing officer, shall prepare findings of fact and conclusions of law. The board shall then issue its final order which shall be delivered to the charged optometrist by personal delivery or certified mail directed to his last known address. The board may revoke or suspend a license, place an optometrist on terms and conditions of probation, limit an optometrist's license privileges, or issue a private or public reprimand.*

*(6) If a board member serves as a hearing officer for a prehearing, informal conference or a hearing, he shall abstain from voting on any final order which results from the hearing.*

*(7) All costs of the proceeding may be assessed against the charged optometrist if a finding of guilt is made by the board.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

*An optometrist who, by final order of the board has been subjected to any disciplinary action may file an appeal. The action on appeal shall be filed with the Franklin Circuit Court within thirty (30) days of the date of the board's order. Grounds for appeal shall be that the board's order is arbitrary, capricious, contrary to law, the product of fraud or that the decision of the board is unsupported by substantial evidence in the record. The board shall file with the Circuit Court a certified copy of the record of the proceeding. The court shall review the action on the record and no new evidence may be considered by the court on appeal. The board's order shall be stayed until final determination of the appeal, unless the court, upon motion of the board, finds that irreparable harm may result to the public unless the order is enforced during the pendency of the appeal.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

*(1) When the board has reason to believe, based upon its own information or a complaint or inquiry directed to the board, that an optometrist is suffering from a physical or mental condition that might impede his ability to practice competently, the board may order the optometrist to undergo a physical or mental examination by persons designated by the board.*

*(2) Failure of an optometrist to submit to an examination when directed shall constitute an admission that the concerned optometrist has developed a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to the public and the board may act accordingly pursuant to KRS 320.310.*

*(3) The board may limit the optometrist's license privileges pursuant to this section in addition to the other alternatives set forth in KRS 320.310.*

*(4) An optometrist whose license has been suspended, limited or revoked under this section shall, at reasonable intervals, be afforded an opportunity to demonstrate that he is able to resume the competent practice of optometry with reasonable skill and safety to patients.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

*(1) No optometrist shall engage in any advertising, in any form, which contains a statement or claim which is false or tends to be misleading, deceptive or unfair, or which is self-laudatory rather than designed to inform the public.*

*(2) No optometrist shall engage in any direct personal solicitation of business, or engage any person to conduct direct personal solicitation on his behalf, unless of an already existing client of that optometrist.*

*(3) "Advertise" means to furnish any written, printed or broadcast information containing an optometrist's name or any other identifying information, with the exception of the following:*

***(a) A professional card identifying the optometrist by name and as an optometrist and giving his address and telephone number;***

***(b) A brief professional announcement card stating the information contained in paragraph (a) of this subsection or any changed associations or addresses or phone numbers which may be mailed to other optometrists, patients, former patients, personal friends and relatives;***

***(c) A routine telephone book listing containing only the information set forth in paragraph (a) of this subsection;***

***(d) A sign on or near the optometrist's office and in the building directory identifying the optometrist's office and containing only the information specified in paragraph (a) of this subsection; and***

***(e) A letterhead of an optometrist containing the information set forth in paragraph (a) of this subsection and the name of any other optometrists in his office.***

***(4) The board may establish regulations to govern advertising under this section and by regulation may institute a procedure requiring prepublication approval of advertisements by the board.***

***(5) In the event that the board disapproves any advertisement pursuant to its regulations, the optometrist submitting the advertisement may request a hearing before the board. The board may consider any additional information submitted to it by the optometrist, or other individuals, and shall issue its final decision concerning the advertisement in writing.***

***(6) Any optometrist aggrieved by a final decision of the board concerning an advertisement may appeal to the Franklin Circuit Court in the same manner provided in this chapter for appeals from disciplinary actions.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

***There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any current or former member, officer, administrator, agent or employee of the board, either as a part of the board's operation or as an individual, as the result of any act, omission, proceeding, conduct or decision relating to official duties undertaken or performed within the scope of the function of the board, except where actual malice or willful misconduct is shown. A person bringing an action under this section shall prove its elements by clear and convincing evidence.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

***(1) Any optometrist licensed in Kentucky may elect to place his license in inactive status by requesting the board, in writing, for leave to do so. The board shall consider the request and may place the license into inactive status.***

***(2) No optometrist shall engage in the practice of optometry during a period when his license is in inactive status.***

***(3) The board may, upon request, allow an optometrist to return his license to active status by requiring him to pay a reinstatement fee in an amount to be determined by the board which shall not exceed the license renewal fee and to provide evidence of completion of continuing education course hours meeting the requirements of KRS 320.280, in a number equal to the amount which would have been required annually had the optometrist's license remained in active status for the period of inactivity. The board may allow a lesser amount of continuing education hours in the event an optometrist's license has remained inactive for a period in excess of five (5) years.***

Section 7. KRS 320.230 is amended to read as follows:

(1) The Kentucky board of optometric examiners shall consist of five (5) members appointed by the governor. Four (4) members shall be practicing optometrists well grounded in the practice of optometry appointed by the Governor from a list containing three (3) names for each appointment recommended by the Kentucky optometric association. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The members shall serve for a term of four (4) years and until their successors are appointed and have qualified. They shall receive ***per diem compensation to be determined by regulation of the board but not to exceed one hundred twenty-five dollars ($125)*** [~~fifty dollars ($50)~~] per day for attending board meetings and ***members*** shall be reimbursed for actual expenses incurred in the ***performance*** [~~carrying out~~] of their duties under this chapter.

(2) Each optometrist member shall be well grounded in the theory and practice of the profession of optometry and shall have been an actual resident and licensed practicing optometrist of this state for not less than five (5) years immediately preceding his appointment to the board. He shall not be in any way

connected with or interested in any optometric school, college or institution of learning or optometric supply business.

(3) Any vacancy occurring on the board as the result of a member not completing the term for which he was appointed shall be filled, for the unexpired term, in the same manner as is provided in subsection (1) of this section for the appointment of members.

(4) A majority of the members of the board shall constitute a quorum for the transaction of business.

Section 8. KRS 320.240 is amended to read as follows:

(1) The board shall meet at least once each year at which time it shall choose from among its members the president, vice president, and secretary-treasurer. In addition, the board upon call of its officers, may hold meetings at ***any*** [~~such~~] time as it deems necessary. The secretary-treasurer shall keep a full record of its proceedings which shall be open to inspection at all reasonable times.

(2) The board shall keep a register containing the name, address and license number of every person licensed to practice optometry in this state.

(3) The attorney general shall render to the board [~~such~~] legal services as it may require in carrying out and enforcing the provisions of this chapter.

(4) Subject to and consistent with the provisions of this chapter, the board shall make and promulgate reasonable ***administrative*** [~~rules and~~] regulations and do any and all things which it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists.

(5) The board shall have a common seal.

(6) The board shall have authority to administer oaths and to require the attendance of witnesses, the production of books, records and papers pertinent to any matters coming before the board by the issuance of process which shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided in the event of disobedience of a subpoena or subpoena duces tecum in a civil action.

(7) The board shall make ***administrative*** [~~rules and~~] regulations governing applicants and applications for registration or license under this chapter and governing the conduct of licensing examinations.

(8) The board shall from time to time accredit schools and colleges teaching optometry, the graduates of which shall be eligible to licensing examinations.

(9) The board shall have the right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter.

(10) The board shall have authority to assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.

(11) The board shall have [~~such~~] other powers and duties as may be provided in the provisions of this chapter.

(12) The board shall make a report of its proceedings to the governor on or about January 1st of each year, including an accounting of all moneys received and disbursed.

(13) The board may authorize persons engaging in the practice of optometry under the provisions of this chapter to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance pursuant to KRS Chapter 218A. These pharmaceutical agents shall be applied in diagnostic procedures only as part of an eye examination. The application of such diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States department of education.

(14) The board may authorize only those persons who have qualified for use of diagnostic pharmaceutical agents as set out in subsection (13) of this section to utilize and prescribe topical therapeutic pharmaceutical

agents in the examination or treatment of any condition of the eye or its appendages. The utilization or prescribing of topical therapeutic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pathology and therapy, with particular emphasis on utilization of therapeutic pharmaceutical agents from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation or by the United States department of education. These six (6) semester hours are in addition to the six (6) semester hours required by subsection (13) of this section, making a total of twelve (12) semester hours.

(15) Any optometrist authorized by the board to utilize diagnostic pharmaceutical agents shall be permitted to purchase for use in the practice of optometry diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics to be applied topically only. Any optometrist authorized by the board to utilize topical therapeutic pharmaceutical agents shall be permitted to prescribe in the practice of optometry topical therapeutic pharmaceutical agents. Optometrists so authorized by the board to purchase pharmaceutical agents shall obtain them from licensed drug suppliers or pharmacists on written orders placed in the same or similar manner as any physician or other practitioner authorized by KRS Chapter 217. Purchases shall be limited to those pharmaceutical agents specified in this subsection and in subsection (13) of this section, based upon the authority conferred upon the optometrist by the board consistent with the educational qualifications of the optometrist as set out herein. All purchases of pharmaceutical drugs by ptometrists shall be upon purchase order forms ***approved*** [~~provided~~] by the board.

Section 9. KRS 320.250 is amended to read as follows:

(1) Licenses to engage in the practice of optometry shall be issued only to those who qualify therefor under the provisions of KRS 320.260 or 320.270, or who successfully pass examinations conducted under the direction of the board at a time and place fixed by the board. Each license certificate shall be signed by the president and secretary-treasurer and authenticated by the seal of the board.

(2) The examination shall consist of a written and clinical or practical examination and shall relate to the skills needed for the practice of optometry in this Commonwealth at the time of the examination and shall seek to determine the applicant's preparedness to exercise ***these*** [~~such~~] skills. In regard to the written examination, the examining board, at its discretion, may:

(a) Prepare, administer and grade the examination;

(b) Approve and administer a standardized examination prepared and graded by or under the direction of the National Board of Examiners in Optometry or any other organization approved by the board as qualified to prepare [~~such~~] an examination;

(c) Accept the scores of the applicant from an examination prepared, administered and graded by the National Board of Examiners in Optometry or any other organization approved by the board as qualified to administer the examination.

(3) The applicant, except those granted licenses under the provisions of KRS 320.260 or 320.270, shall successfully pass both the written and clinical or practical portions of the examination.

(4) Any person seeking a license to practice optometry pursuant to the provisions of this section shall submit an application to the board on forms furnished by the board. The applicant shall show proof of the following:

(a) The applicant is not less than eighteen (18) years of age;

(b) The applicant is a graduate of a school or college of optometry accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation, or by the United States department of education, and which is in good standing, as determined by the board. All applicants shall have transcript credit of at least six (6) semester hours in a course or courses ***from a school or college as described in this subsection*** in general and ocular pharmacology with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye ***and six (6) semester hours in ocular pathology and therapy with emphasis on utilization of therapeutic pharmaceutical agents. All hours shall be from a school or college as described in this subsection.***

(c) All other information requested by the board as is set out on the application.

(5) The fee for each examination shall not exceed ***two*** [~~one~~] hundred dollars ***($200)*** [~~($100)~~] for resident applicants and ***four*** [~~two~~] hundred dollars ***($400)*** [~~($200)~~] for nonresident applicants.

(6) No person shall be allowed to take the examination more than three (3) times within the period of any five (5) consecutive years.

Section 10. KRS 320.270 is amended to read as follows:

(1) Any person who has been licensed to practice optometry in another state, which state has licensing and educational requirements substantially equal to or higher than those of this state and which grants equal licensing privileges to persons licensed in this state, may be issued, without written examination, a license to practice optometry in this state upon satisfactorily complying with all [~~rules,~~] regulations and procedures established by the board relating to the granting of licenses by reciprocity.

(2) The applicant shall be required to pass an oral and clinical or practical examination and produce satisfactory evidence that he has actually practiced optometry for at least five (5) years in the state from which he is applying for reciprocity, and shall further comply with all other [~~rules and~~] regulations adopted by the board relating to the granting of a license by reciprocity.

(3) The applicant shall further be required to execute and deliver an affidavit to the board stating that said applicant intends to practice optometry in the Commonwealth upon receipt of the license.

(4) The granting of a license by reciprocity shall be at the discretion of the board. An applicant seeking a license by reciprocity shall be charged a fee not to exceed ***four*** [~~two~~] hundred dollars ***($400)*** [~~($200)~~].

Section 11. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than ***two hundred*** [~~seventy-five~~] dollars ***($200)*** [~~($75)~~]. Not later than February 15 of each year the secretary-treasurer shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon ***a*** [~~such~~] form as is prescribed by the board and the optometrist shall furnish the information required by ***the*** [~~such~~] form. As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The length ***and content*** of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year***, with the exception of those optometrists who are authorized to prescribe therapeutic agents who shall be required to have additional credit hours of continuing education in ocular therapy and pharmacology, the amount of required credit hours to be determined by the board, but not to exceed an additional seventeen (17) credit hours, for a total not to exceed twenty-five (25) credit hours per year***. [~~For the year 1986 and each year thereafter, those optometrists who are certified to prescribe therapeutic pharmaceutical agents shall have an additional two (2) credit hours of continuing education in ocular therapy each year, making a total of ten (10) credit hours required for license renewal.~~] Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the state. The board shall waive the continuing education requirement in cases of illness or undue hardship.

(2) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 12. KRS 320.290 is amended to read as follows:

(1) Every optometrist shall register his license with the clerk of the county ***or counties*** in which he ***practices*** [~~resides~~]. The clerk shall receive a fee pursuant to KRS 64.012 for each registration.

(2) Every practicing optometrist shall display in a conspicuous place at the entrance to his office the true full name of the person practicing therein and shall keep his license certificate conspicuously displayed in his place of practice so that it can easily be seen and read [~~but not so as to use it to attract patronage~~].

Section 13. KRS 320.300 is amended to read as follows:

It shall be unlawful and a violation of the provisions of this chapter for any person:

(1) To sell, fit or dispense visual aid glasses except upon the written prescription of an optometrist, physician or osteopath regularly licensed to practice optometry, medicine or osteopathy;

(2) To practice optometry, directly or indirectly, or to hold himself as being able so to do without first having obtained a license from the board and filing the ***license*** [~~same~~] with the clerk of the county ***or counties*** in which he ***practices*** [~~resides~~];

(3) [~~To advertise by any means whatsoever, directly or indirectly, the cost or price of visual aid glasses; to offer such glasses at a discount or as a premium for the purchase of any article of merchandise; to advertise any reference to or comparison of cost or price of visual aid glasses in any manner whatsoever, directly or indirectly; to advertise any type of visual care service as being superior to any other, or to advertise the terms of credit or payment for such glasses;~~

~~(4)~~] If he writes a prescription for visual aid glasses, to receive any part of the price paid to a third person for filling such prescription; or for such third person to pay to the person writing the prescription any part of the price paid for filling ***the*** [~~such~~] prescription;

***(4)***[~~(5)~~] To practice optometry under any name other than his own ***except as permitted by the board in its regulations.***

Section 14. KRS 320.310 is amended to read as follows:

(1) The board shall have the power to refuse to grant, issue or renew any license to practice optometry, [~~or~~] to revoke or suspend any license to practice optometry***, to place any optometrist upon terms and conditions of probation, to limit the license privileges of an optometrist or to issue a private or public reprimand*** for any of the following causes:

(a) Presentation to the board of any license, certificate or graduation diploma illegally or fraudulently obtained, or the practice of fraud or deception in passing an examination;

(b) Conviction of a ***felony or any crime which involves acts which relate to the optometrist's qualifications, ability or moral fitness to continue to practice optometry or which may create a danger to the public*** [~~crime involving moral turpitude~~];

(c) Chronic or persistent inebriety or addiction to a drug habit to an extent that disqualifies from practicing with safety to the public;

(d) Loaning, selling, or fraudulently obtaining any optometry diploma, license, record, or certificate, or aiding or abetting therein;

(e) Gross incompetence, as determined by the board;

(f) Grossly unprofessional or dishonorable conduct, as determined by the board;

(g) The obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient or patients;

(h) Affliction with a contagious or infectious disease which, in the opinion of the board, renders practice of optometry by the licensee or applicant for license dangerous to the public health;

(i) Practicing as an itinerant, peddling from door to door, establishing a temporary office, or practicing optometry outside of or away from his regular office or place of practice;

(j) Employing, procuring, inducing, aiding or abetting any person, not holding a license, to practice optometry;

(k) [~~Soliciting patients by advertising of any nature or description; Provided, however, That upon the opening, reopening or removal of an office for the practice of optometry, an optometrist may publish, in local newspapers, an announcement, which announcement shall be limited to a statement of his name, title, profession, degrees, address, telephone number and office hours; and further provided that such announcement shall not be published for more than ninety (90) days after the opening, reopening or removal of such office; such announcement shall not exceed eight (8) square inches in area;~~

~~(l)~~] Seeking patronage by means of solicitors, canvassers, cappers, steerers or agents;

[~~(m) Displaying any spectacle, eyeglasses, eyeglass or spectacle frames or mountings, goggles, lenses, prisms, spectacle or eyeglass cases, ophthalmic material of any kind, optometric instruments, or optical tools or machinery, or any merchandise, material, or displays of a commercial nature in office windows or reception rooms or in display cases outside of the office, where the display of such merchandise, material or displays would make it visible from the street;~~

~~(n) Announcing his name in any city, commercial telephone or other public directory, or directories~~

~~in public or office buildings; using display or bold-face type or type that is in any way dissimilar in size, shape, or color to that used for other practitioners of the healing arts in the same directory;~~

~~(o) Displaying his license, diplomas, or certificates in such a manner that they may be seen from the outside of the office;~~]

***(l)***[~~(p)~~] Using the title "doctor" or its abbreviation without further qualifying this title or abbreviation with the word "optometrist";

***(m)***[~~(q)~~] Use by an optometrist of the words [~~"clinic,"~~] "infirmary," "hospital," "school," "college," "university," or "institute" in English or any other language in connection with any place where optometry may be practiced or demonstrated; Provided, however, That nothing in this section shall prevent an optometric clinic, approved by the board, from being conducted on a nonprofit basis by a school or college of optometry or an association of registered optometrists;

***(n)***[~~(r)~~] Any conduct which, in the opinion of the board, is of a character likely to deceive or defraud the public;

***(o) Receipt by an optometrist of any part of the price paid to another person for filling a prescription prepared by the optometrist;***

***(p) Violation of any order of suspension, order limiting privileges, or terms or conditions of any order of probation issued by the board;***

***(q) Has had his license to practice optometry in any other jurisdiction revoked, suspended, placed on conditions of probation or subjected to other disciplinary action by the licensing authority thereof;***

***(r) Receipt of any fees for services not rendered;***

***(s) Prescription of any therapeutic agent in such an amount that the optometrist knows, or has reason to know, is excessive under accepted and prevailing standards, or which the optometrist knows, or has reason to know, will be used or is likely to be used other than for an accepted therapeutic purpose;***

***(t) Development of a physical or mental disability, or other condition, which renders the continued practice by the optometrist dangerous to the patients or the public; and***

***(u) Violation of any statute under this chapter pertaining to professional advertising of optometrists.***

[~~(s) The issuance of appointment cards or the display of the name of the licensee on the premises where he is engaged in the practice of his profession when the information goes beyond that permitted by a professional card;~~

~~(t) The display of the name and title of the licensee, in lettering larger than four (4) inches in height for street-level offices, or larger than six (6) inches in height for offices above street level and in no event shall there be more than three (3) such displays, and the illumination of said name and title except during office hours; the use of colored or neon lights, eyeglasses or eye signs, whether painted, neon, decalcomania, or any other medium of display either in the form of eyes or structures resembling eyes, eyeglass frames, eyeglasses or spectacles, whether lighted or not.~~]

(2) Nothing in this section shall be construed to prohibit a licensed optometrist from issuing appointment cards to his patients when the information thereon is limited to matter pertaining to the time and place of appointment and that permitted on a professional card. For the purpose of this section, the professional card shall contain only the name, title, profession, degrees, address, telephone number and office hours of the licensed optometrist.

(3) Nothing in this section shall prevent an optometrist from establishing not more than one (1) branch office, providing ***any*** [~~such~~] office contains [~~such~~] minimum equipment as shall be required by ***regulation*** [~~rule~~] of the board and provided further, that a duly licensed optometrist shall be in charge of ***the*** [~~such~~] office.

Section 15. The following KRS sections are repealed:

320.320 Proceedings for revocation or suspension of licenses.

320.330 Appeal from order revoking license.

The Committee Amendment No. 1 to **HB 800** is as follows:

Amend printed copy of **HB 800** on page 3, line 21, by deleting the words "***Franklin Circuit Court***" and inserting in lieu thereof the words "***circuit court of the county in which the violation occurred***".

**HB 803**, AN ACT relating to drugs.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

***(1) Any manufacturer or wholesaler of drugs shall be required to register with and obtain a license from the Cabinet for Human Resources. The Cabinet for Human Resources may adopt administrative regulations and set reasonable fees relating to the issuance and renewal of licenses. All licenses shall expire on June 30, following the date of issue, unless renewed. All fees shall be deposited in a revolving fund, which is hereby created, to be used by the Cabinet in carrying out the provisions of this chapter.***

***(2) The Cabinet for Human Resources may adopt administrative regulations which permit out of state wholesale drug distributors to obtain any license required by this Act on the basis of reciprocity to the extent that an out of state wholesale drug distributor possesses a valid license granted by another state pursuant to legal standards comparable to those which shall be met by a wholesale drug distributor of this state, and such other state would extend reciprocal treatment under its laws to a wholesale drug distributor of this state.***

***(3) The Cabinet for Human Resources shall appoint a Wholesale Drug Distributor Advisory Committee composed of five (5) members, to be selected as follows:***

***(a) At least one (1) member shall be a pharmacy distributor, but who shall not be an employee of the Cabinet for Human Resources; except that if no pharmacy distributor is available, a representative of wholesale drug distributors may be substituted in addition to those representatives required in paragraph (b);***

***(b) At least two (2) members shall be representatives of wholesale drug distributors who are not drug manufacturers;***

***(c) At least one (1) member shall be a representative of drug manufacturers;***

***(d) In making appointments to the Wholesale Drug Distributor Advisory Committee, the Cabinet for Human Resources shall consider recommendations received from each of the wholesale drug distributors, pharmacy distributors and drug manufacturers, and shall promulgate administrative regulations which provide for solicitation of recommendations.***

***(4) The Wholesale Drug Distributor Advisory Committee shall review and make recommendations to the Cabinet for Human Resources on the merit of all administrative regulations relating to wholesale drug distributors, pharmacy distributors and drug manufacturers which are promulgated by the cabinet. No administrative regulation affecting wholesale drug distributors, pharmacy distributors or drug manufacturers shall be promulgated by the Cabinet for Human Resources without first being submitted to the advisory committee, in a reasonable period of time prior to promulgation, for review and comment by the committee.***

***(5) All administrative regulations promulgated by the Cabinet for Human Resources relating to wholesale drugs shall conform to wholesale drug distributor licensing guidelines formally adopted by the U. S. Food and Drug Administration. Federal regulations shall prevail in the event of a conflict.***

***(6) Manufacturers and wholesalers shall be required to maintain accurate records of all drugs manufactured, received or sold. These records shall be made available to authorized agents of the Cabinet for Human Resources for inspection at reasonable times. The cabinet may require by regulation that manufacturers and wholesalers periodically report to the cabinet all drugs manufactured, received and sold.***

***(7) The Cabinet for Human Resources may suspend or revoke a drug manufacturer or wholesalers license for cause, subject to appeal by the licensee.***

Section 2. KRS 217.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 217.350 shall be fined not more than twenty-five dollars ($25.00).

(2) Any person who violates any of the provisions of subsection (2) of KRS 217.390 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), or imprisoned for not more than fifty (50) days, or both.

(3) Except as provided in subsections (1) and (2) of this section, any person who violates any of the provisions of KRS 217.280 to 217.390 or who refuses to comply with any lawful order or requirement duly made in writing as provided in KRS 217.380, shall, for the first offense, be fined not less than ten dollars

($10.00) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both, and for any subsequent offense shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200), or imprisoned for not more than ninety (90) days, or both. Each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions, as ordered under KRS 217.380, shall be a separate offense.

(4) Any person who violates any of the provisions of KRS 217.400 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100).

(5) Any person who violates any of the provisions of KRS 217.420 to 217.440 shall be fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(6) Any person who violates any of the provisions of KRS 217.450 shall be fined one hundred dollars ($100).

(7) Any person who violates any provision of KRS 217.801 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(8) Any person who violates any of the provisions of KRS 217.808 to 217.812, or any rule or regulation adopted thereunder, or who operates a vending machine company or vending machine commissary without a permit as prescribed in KRS 217.808 to 217.812, or who fails to comply with any order of the cabinet or of any local health department issued pursuant thereto shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

(9) Wilful noncompliance with KRS 217.816 shall constitute a violation and shall subject the violator to a fine of not over fifty dollars ($50.00) for the first offense and not over two hundred dollars ($200) for a subsequent offense.

(10) Any person who wilfully fails to comply with the provisions of KRS 217.816 to 217.826***, or who fails to obtain a license as required by Section 1 of this Act, or who willfully submits inaccurate information in violation of the provisions of Section 1 of this Act,*** shall be guilty of a violation and shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

(11) Any person who violates any of the provisions of KRS 217.177 shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than five (5) nor more than thirty (30) days, or both.

(12) Any manufacturer or distributor who dispenses, sells, or otherwise provides to any other person any legend drug in solid dosage form that fails to comply with the requirements of KRS 217.907 to 217.915 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

Section 3. The following KRS section is repealed:

315.036 Permit to be acquired by manufacturer or wholesaler — Fee — Records required — Report.

**HB 911,** AN ACT relating to athletic trainers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 311.900 is amended to read as follows:

(1) "Athletic trainer" means a person with specific qualifications, as set forth in KRS 311.916, who, upon the advice and consent of ***a*** [~~his~~] team physician, carries out the practice of prevention or physical rehabilitation, or both, of injuries incurred by participating athletes at ***an*** [~~his~~] educational institution, professional athletic organization, or other bona fide athletic organization. In carrying out these functions the athletic trainer is authorized to use whatever physical modalities as are deemed necessary by a team physician***; and***[~~.~~]

(2) "Council" means the Kentucky advisory council on athletic trainers.

Section 2. KRS 311.902 is amended to read as follows:

(1) There is hereby created the Kentucky advisory council on athletic trainers, comprised of five (5) members, to be appointed by the Governor. To qualify as a member, a person ***shall*** [~~must~~] be a citizen of the United States and a resident of Kentucky for five (5) years immediately preceding appointment. Two

(2) members shall be athletic trainers, and two (2) members shall be physicians licensed by the state and members of the Kentucky Medical Association's committee on school health, physical education and medical aspects of sports and one (1) member shall be a citizen member.

(2) Except for the initial appointees, members shall serve for a term of office of ***four (4)*** [~~six (6)~~] years. All terms shall expire on January 31 of even-numbered years. In making the initial appointments, one (1) member shall be appointed for a one (1) year term, one (1) member for a two (2) year term, one (1) member for a three (3) year term, and two (2) members for a four (4) year term.

(3) A board member may be removed by the Governor for good cause or if he [~~or she~~] misses two (2) consecutive council meetings and the other council members ***determine*** [~~feel~~] it is in the best interest of the council.

(4) ***Upon the*** [~~In the event of~~] death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the Governor in the same manner as other appointments.

Section 3. KRS 311.916 is amended to read as follows:

(1) An applicant for an athletic trainer certificate ***shall*** [~~must~~] possess one of the following qualifications:

(a) Have met the athletic training curriculum requirements of a college or university approved by the board and give proof of graduation ***and be certified by the National Athletic Trainer's Association, however, the board may grant an exception using the following criteria:***

***1. Graduate of an accredited college or university; and***

***2. Shown proof of one thousand five hundred (1500) hours as an apprentice athletic trainer as provided in subsection (1)(c) of this section***; [~~or~~]

(b) Hold a certificate or a degree in physical therapy and have completed ***the following***:

***1.***[~~(1)~~] A basic athletic training course;

***2.***[~~(2)~~] A first aid and a cardio-pulmonary resuscitation course;

***3.***[~~(3)~~] A nutrition course; and

***4.***[~~(4)~~] Have spent a minimum of 600 clock hours working under the direct supervision of an approved athletic trainer. The board may waive or alter the hour requirements if the applicant can demonstrate equivalent experience; or

(c) Have completed at least four (4) years beyond the secondary school level, while either an undergraduate or graduate student, as an apprentice athletic trainer at a college or university under the direct supervision of an athletic trainer approved by the board. Said four (4) years ***shall*** [~~must~~] be consecutive years of supervision, military duty excepted. An applicant for certification under this provision ***shall:***

***1.*** [~~must~~] Show proof of graduation from an accredited college or university***;***

***2. Show proof of*** [~~and~~] successful completion of courses in ***basic and advanced*** athletic training, first aid, cardio-pulmonary resuscitation, nutrition, anatomy, ***exercise*** physiology***,*** [~~and~~] kinesiology ***and personal health; and***

***3. Have spent a minimum of one thousand five hundred (1500) clock hours working under the direct supervision of an approved athletic trainer, one thousand (1000) hours of which shall be traditional hours and may include, but may not exceed, five hundred (500) clinical hours.***

(2) An out-of-state applicant ***shall*** [~~must~~] fulfill one of the [~~above stated~~] qualifications ***enumerated in subsection***[~~,~~] (1)(a), (b), or (c) ***of this section***. The Commonwealth of Kentucky may grant, without examination, a certificate to any qualified nonresident athletic trainer holding a license or certificate in another state if such other state recognizes certificates of the Commonwealth of Kentucky in the same manner ***and has the same or equivalent requirements for certification***. An out-of-state applicant from a state not having a licensure or certification act ***shall*** [~~will~~] be eligible to take the Kentucky certification examination if certified by the national athletic trainers' association and approved by the board.

Section 4. KRS 311.918 is amended to read as follows:

(1) An applicant for an athletic trainer certificate ***shall*** [~~must~~] submit an application to the board on forms prescribed by the board and submit the examination fee required by KRS 311.912.

(2) The applicant ***shall be*** [~~is~~] entitled to an athletic trainer's certificate if he possesses the qualifications enumerated in KRS 311.916, completes the examination ***approved*** [~~administered~~] by the board, to their satisfaction, pays the certification fee as set in KRS 311.912, and has not committed an act which constitutes grounds for denial of a certificate under KRS 311.920.

***(3) The applicant shall be entitled to a temporary permit if he meets the requirements of KRS 311.916.***

**SB 136,** AN ACT relating to respiratory care.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 314A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***As used in this chapter:***

***(1) "Respiratory care" includes "respiratory therapy", "inhalation therapy" or other "cardiopulmonary" terms.***

***(2) "Practice of respiratory care" means the procedures employed in the therapy, management, rehabilitation, gathering of assessment information, or other procedures administered to patients with deficiencies or abnormalities which affect their cardiopulmonary system and associated aspects of cardiopulmonary and other system functions. This includes, but is not limited to:***

***(a) Provision of respiratory care procedures to ensure the safety, comfort, personal hygiene, protection of patients, and the performance of disease prevention and restorative measures;***

***(b) The administration of pharmacologic and therapeutic agents related to the cardiopulmonary care necessary for treatment, disease prevention, or rehabilitation regimes prescribed by a physician; and***

***(c) Observation of signs and symptoms of cardiopulmonary illness, reactions to treatment, general physical condition; determination of whether such signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics; and performance of standard procedures according to observed abnormalities, or reporting them to the physician in charge or other caretakers; initiating standard or emergency procedures.***

***(3) "Respiratory care practitioner" means a person who holds a mandatory certificate approved by the board. The term "respiratory care practitioner" includes the following:***

***(a) A "respiratory therapist" means an individual who has successfully completed a training program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education, and who has successfully completed the registry examination for respiratory therapists administered by the National Board of Respiratory Care, Incorporated;***

***(b) A "respiratory care technician" means an individual who has successfully completed a training program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education, and who has successfully completed the entry level certification examination for respiratory care technicians administered by the National Board for Respiratory Care, Incorporated;***

***(c) A "graduate respiratory care practitioner" means an individual who has graduated from an approved educational program and is waiting to sit for the next available entry level certification examination that will be administered by the National Board for Respiratory Care, Incorporated;***

***(d) A "student respiratory care practitioner" means:***

***1. An individual enrolled in an education and training program, accredited by the American Medical Association's Committee on Allied Health Education and Accreditation and the Joint Review Committee for Respiratory Therapy Education, for respiratory care practitioners and whose sponsoring education institution assumes responsibility for the supervision of and the services rendered by the student respiratory care practitioner while he is functioning in a clinical training capacity; or***

***2. An individual enrolled in an education and training program, accredited by the American Medical Association's Committee on Allied Health Education and Accreditation and the Joint Review Committee for Respiratory Therapy Education, and who is also employed for compensation to provide respiratory care services as outlined in subsection (1)(d) of Section 4 of this Act.***

***(4) "Board" means the Kentucky Board of Respiratory Care.***

*(5) "Accredited program" means a training program accredited by the American Medical Association's Committee on Allied Health Education in collaboration with the Joint Review Committee for Respiratory Therapy Education which qualifies the graduate to sit for the registry examination for respiratory therapists or the entry level certification examination for respiratory care technicians administered by the National Board for Respiratory Care.*

*(6) "Mandatory certification" means the board's official authorization to practice respiratory care for the time specified by the mandatory certification; and*

*(7) "Continuing education" means educational activities primarily designed to keep respiratory care practitioners informed of developments in the respiratory care field or any special areas of practice engaged in by such persons.*

*(8) "Medical Director" means a licensed physician who is knowledgeable in the diagnosis, treatment, and assessment of respiratory problems and whose responsibilities are established by statutes and regulations governing the operation of facilities licensed under KRS Chapter 216B, as well as statutes and regulations dealing with hospice, home health, and other settings where respiratory care services may be delivered.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) A respiratory care practitioner may perform respiratory care procedures under medical direction, in accordance with agency or facility guidelines and only in accordance with the prescription of a physician. The procedures shall include, but not be limited to, the assessment and therapeutic use of the following: medical gases, exclusive of general anesthesia; aerosols, humidification, environmental control systems; pharmacologic agents related to respiratory care procedures, excluding intravenous or intramuscular medications; mechanical or physiological ventilatory support; bronchopulmonary hygiene, maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; specific assessment and testing proceedures such as drawing and analyzing of arterial blood gases employed in the medical measurement and monitoring of cardiac function as it relates to pulmonary pathophysiology.*

*(2) The practice of respiratory care may be performed in hospitals or in other settings where respiratory care is to be provided in accordance with a prescription of a physician. In addition, respiratory care may be provided during the transportation of a patient, or under any circumstances where an emergency necessitates respiratory care.*

*(3) The respiratory care practitioner may transcribe and implement a physician's written or verbal orders pertaining to the practice of respiratory care procedures as defined in this section.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) This Act does not prohibit:*

*(a) The performance of respiratory care which is an integral part of the program of study by students enrolled in an accredited program;*

*(b) Self-care by the patient nor the gratuitous care by a friend or member of the family who does not represent or hold himself out to be a respiratory care practitioner;*

*(c) Respiratory care services provided in the case of an emergency;*

*(d) Persons from engaging in cardiopulmonary research; and*

*(e) The performance of respiratory care by trained paramedical personnel.*

*(2) Nothing in this section shall limit, preclude or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their license.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) To be eligible for mandatory certification as a respiratory care practitioner the applicant shall:*

*(a) Initially submit a completed application within twelve (12) months after the effective date of this Act with the required fee, and meet the requirements of paragraphs (b), (c) or (d) of this subsection; thereafter, only persons qualified under paragraph (b) or (d) of this subsection or under subsection (2) of this section may apply for a mandatory certificate;*

*(b) Hold a currently valid certificate of registry or certification issued by the National Board for Respiratory Care or its successor. A temporary mandatory certificate may be issued to the graduate respiratory care practitioner which shall be effective until receipt of a passing score from the first available National Board*

*for Respiratory Care entry level certification examination for which the graduate respiratory care practitioner is eligible. The holder of a mandatory certificate who does not successfully pass the first available National Board for Respiratory Care entry level certification examination for which he is eligible shall cease and desist performing any services as a respiratory care practitioner. Failure to comply in this instance shall subject him to prosecution for practicing as a respiratory care practitioner without a mandatory certificate. However, a failing score on the entry level certification examination shall not prevent an applicant from applying for and taking subsequent entry level certification examinations according to National Board for Respiratory Care guidelines;*

*(c) Individuals that do not hold a valid certificate of registry or certification, but who have practiced respiratory care in the Commonwealth of Kentucky for a minimum of twenty-four (24) months under medical supervision, and who provide satisfactory documentation of such experience, may apply to the board for a mandatory certificate, provided such documentation is presented within twelve (12) months of the effective date of this Act;*

*(d) In order for student respiratory care practitioners to be employed for compensation to provide respiratory care services, they must apply to the board for a limited mandatory certificate which will permit them to perform respiratory care procedures (for which they have received training) under the supervision of a respiratory therapist or a respiratory care technician. This limited mandatory certificate excludes the performance of continuous mechanical or physiological ventilatory support, arterial puncture, and blood gas analysis. The limited mandatory certificate may be granted only to individuals actively enrolled in an accredited program and for a period not to exceed three (3) years. This limited mandatory certificate is in no manner required for individuals actively enrolled in an accredited program while performing uncompensated clinical activities required by the program.*

*(2) Respiratory care practitioners duly authorized to practice in other states and in good standing may be conferred a mandatory certificate by the board if the requirements for licensure or certification in that state are substantially equal to the requirements of this Act.*

*(3) Respiratory care technicians applying for mandatory certification shall retain their National Board for Respiratory Care (NBRC) designation as certified respiratory therapy technicians in addition to that of respiratory care practitioner, and respiratory therapists shall retain their NBRC designation as registered respiratory therapists in addition to respiratory care practitioner subject to the requirements of mandatory certification herein described. Persons applying for mandatory certification through the limited mechanism of grandfather status shall solely be designated as respiratory care practitioner.*

*(4) Mandatory certification of respiratory care practitioners shall be on a biennial basis according to established criteria under Section 5 of this Act. Mandatory certificates issued by the board shall expire and shall not be renewed unless the certificate holder submits proof to the board of compliance with Section 5 of this Act. On and after the date on which a person's mandatory certificate has expired, he may apply for reinstatement within five (5) years of the expiration of the mandatory certificate. The applicant shall show compliance with the current continuing education requirement in force at the time of mandatory certificate renewal application. After expiration of a five (5) year period, current standards for mandatory certification shall be met. The board may require individualized conditions for reinstatement.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*A person applying for renewal of his mandatory certificate shall show evidence of completion of continuing professional education in respiratory care as prescribed by the board in administrative regulations.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created a Board of Respiratory Care which shall consist of seven (7) members appointed by the Governor. Four (4) members shall be respiratory care practitioners chosen from a list of seven (7) submitted by the Kentucky Society for Respiratory Care, two (2) shall be pulmonologists, and one (1) shall be a citizen at large who is not associated with or financially interested in respiratory care. The executive director of the Divisions of Occupations and Professions shall serve on the board in an ex officio capacity. The respiratory care practitioner members shall hold valid mandatory certificates in Kentucky and shall also practice in the Commonwealth. The pulmonologists shall be licensed physicians practicing in Kentucky. The members of the board shall serve until the expiration of the term for which they have been appointed. All appointments made shall be for a term of three (3) years, except for appointments to fill vacancies caused by a reason other than the expiration of a member's term which shall be filled for the remaining portion of the member's term. No person shall be appointed to serve more than two (2) consecutive terms.*

*(2) The board shall reorganize annually and select a chairperson. Four (4) members of the board shall constitute a quorum to do business. The board shall hold at least one (1) regular meeting each year. Additional*

*meetings may be held upon the call of the chairperson or at the written request of any two (2) members of the board. All meetings of the board shall be open and public.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications of applicants, and may issue subpoenas, examine witnesses, and administer oaths, and shall investigate persons engaging in practices which violate the provisions of this chapter.*

*(2) The board shall conduct hearings and keep records and minutes as shall be necessary to an orderly dispatch of business.*

*(3) The board shall adopt administrative regulations to carry out the provisions of this Act.*

*(4) Every person who holds a mandatory certificate to practice respiratory care in this state shall be governed and controlled by the rules of professional conduct adopted by the board.*

*(5) The enumeration of specific powers elsewhere in this chapter shall not be construed as a limitation of the general powers conferred by this section.*

*(6) The board shall fix appropriate and reasonable fees for mandatory certification, and shall periodically review and modify these fees as necessary.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*Any person aggrieved by a final order of the board may obtain a review of the order by filing in the Franklin Circuit Court, within sixty (60) days after the entry of the order, a written petition requesting that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the board and the board shall certify and file in court a copy of the filing, testimony, and other evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the board's order. An appeal may be taken from the judgment of the Franklin Circuit Court to the Court of Appeals on the same terms and conditions as an appeal is taken in civil actions.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) The board members shall receive a compensation of fifty dollars ($50) per day for their services, and per diem and traveling expenses to the extent authorized by board policy.*

*(2) The board shall employ and, at its pleasure, discharge a secretary and such attorneys, inspectors, clerks and any other employees as shall be deemed necessary, and shall outline their duties and fix their compensation. The amount of per diem and mileage paid to employees shall be provided by board policy.*

*(3) All money received by the board shall be deposited in the State Treasury into a separate trust fund for the board. The board shall be financed solely and individually from income accruing to it from fees, mandatory certificates, and other charges collected by the board.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) The board shall issue a mandatory certificate to all applicants who meet the requirements of this chapter and who pay to the board the initial mandatory certificate fee.*

*(2) The amount of fees prescribed in connection with a mandatory certificate as a respiratory care practitioner shall be as follows:*

*(a) The initial mandatory certificate fee shall not exceed fifty dollars ($50);*

*(b) The delinquency fee shall not exceed twenty dollars ($20);*

*(c) The application fee shall not exceed fifty dollars ($50);*

*(d) The inactive mandatory certificate fee shall not exceed ten dollars ($10) every two (2) years; and*

*(e) The temporary mandatory certificate fee shall not exceed ten dollars ($10).*

*(3) Each respiratory care mandatory certificate holder shall, expire on January 30 every two (2) years. A thirty (30) day grace period shall be allowed after January 30, during which time mandatory certificates may be renewed on payment of a renewal fee of not more than seventy dollars ($70) plus a grace period*

fee, when applicable which combined will not exceed ninety dollars ($90). No person who applies for renewal, whose mandatory certificate has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within five (5) years from the date of such expiration. No person shall practice respiratory care in this state unless he holds a valid certificate. All mandatory certificates not renewed by March 2 following the date of issuance shall be deemed expired.

*(4) A suspended mandatory certificate is subject to expiration and shall be renewed as provided in this chapter, but such renewal shall not entitle the respiratory care practitioner, while the mandatory certificate remains suspended, and until it is reinstated, to engage in mandatory certification activities, or in any other activity or conduct in violation of the order of judgment by which the mandatory certificate was suspended. A mandatory certificate revoked on disciplinary grounds is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the mandatory certificate holder, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.*

*(5) A person who fails to renew his or her mandatory certificate within the five (5) years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but such persons may apply for and obtain a new mandatory certificate if he meets the requirements of this chapter.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) The board may refuse to issue a mandatory certificate, or may suspend or revoke the mandatory certificate of any certificate holder if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may include:*

*(a) Obtaining a mandatory certificate by means of fraud, misrepresentation, or concealment of material facts;*

*(b) Having been guilty of unprofessional conduct as defined by the rules established by the board, or having violated the code of ethics adopted and published by the board;*

*(c) Having violated any lawful order, rule or administrative regulation rendered or adopted by the board; or*

*(d) Having violated any provisions of this chapter.*

*(2) The board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a mandatory certificate as ordered by the board in any decision made after a hearing as provided in this chapter. One (1) year from the date of revocation of a mandatory certificate under this chapter, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement.*

*(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this chapter. At the direction of the board, the mandatory certificate shall be suspended or revoked, or issuance of a mandatory certificate shall be declined when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of the penal code allowing a person to withdraw his plea of guilty, and to enter a plea of not guilty or setting aside the verdict of guilty, or dismissing the acquisition, information or indictment.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

*(1) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars ($1,000), or by both.*

*(2) When any person other than a respiratory care practitioner holding a valid mandatory certificate has engaged in any act or practice which constitutes an offense against this chapter, the Franklin Circuit Court, on application of the board, may issue an injunction or other appropriate order restraining such conduct.*

The Committee on Business Organizations reported **HB 157** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 157** is as follows:

**HB 157,** AN ACT relating to revenue and taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 131.170 is amended to read as follows:

The Revenue Cabinet may, when extension is not otherwise provided for, grant a reasonable extension of time for filing reports or returns whenever, in its judgment, good cause therefor exists. The cabinet shall keep a record of such extensions. Except where a taxpayer is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year. If any extension operates to postpone a tax payment, interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of one-half of one percent (.5%) per month or part thereof~~] shall be collected. The cabinet may condition the extension upon a bond sufficient to cover any tax and penalty determined to be due. The cabinet may, on request, permit a person to file a tax return or report or pay tax on a date other than that prescribed by statute, or to change the fiscal period covered by such return or report, if such a variation will not ultimately effect a reduction in revenue.

Section 2. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the Revenue Cabinet shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following March 31 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of ten percent (10%) per annum~~].

Section 3. KRS 137.180 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall, on or before thirty (30) days following the close of each duly licensed race meeting, furnish the Revenue Cabinet a verified report of the number of days on which races were conducted on that race track during the race meeting, together with a statement of its daily mutuel handle for each such day during the said meeting, and at the same time pay to the state the tentatively correct amount of the license tax apparently due it pursuant to KRS 137.170.

(2) On or before December 31 in each year each [~~such~~] person ***engaged in the business of conducting a race track*** shall file a final report with the Revenue Cabinet giving in summary form a recapitulation of the information furnished by the previous tentative reports filed during the year, computing the final license tax due the state for the year ending November 30 and showing the amount of license tax actually paid during ***the*** [~~such~~] year. Any balance of license tax due the state as shown on ***the*** [~~said~~] final report shall be paid at the same time as the filing thereof. Any overpayment in license tax disclosed by ***the*** [~~said~~] final report shall, at the option of the taxpayer, be promptly refunded by the state or credited against the license tax to be due from the taxpayer in the following year.

(3) Any person who fails to pay the tax due in the time specified shall pay a penalty equal to twenty percent (20%) of the amount of tax due and delinquent, together with interest at ***the tax interest rate as defined in KRS 131.010(6)*** [~~six percent (6%) per annum on both the original tax and the penalty~~].

Section 4. KRS 138.4631 is amended to read as follows:

(1) If any holder of a permit under KRS 138.463(2) fails or refuses to file a return or furnish any information requested in writing, the cabinet may, from any information in its possession, make an estimate of the permit holder's gross rental or lease charges and issue an assessment against ***the*** [~~such~~] permit holder based on the estimated gross rental or lease charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.

(2) If any holder of a permit under KRS 138.463(2) fails to make and file a return required by KRS 138.463 on or before the due date of the return or the due date as extended by the cabinet, then, unless it is shown to the satisfaction of the cabinet that the failure is due to a reasonable cause, five percent (5%) of the tax found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing

between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars ($10).

(3) If the tax imposed by KRS 138.463, whether assessed by the cabinet or the permit holder, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of twelve percent (12%) per annum~~] from the date prescribed for its payment until payment is actually made.

Section 5. KRS 139.610 is amended to read as follows:

(1) The cabinet shall upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of eight percent (8%) per annum~~] from the date on which the tax would otherwise have been due.

Section 6. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due and payable to the Revenue Cabinet at the death of the decedent. If they are paid within nine (9) months a discount of five percent (5%) shall be allowed, and if they are paid within eighteen (18) months no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, a penalty of ten percent (10%) per annum shall be charged and collected from the time the taxes accrued, except in cases where, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of the decedent or a part thereof cannot be settled at the end of eighteen (18) months from the death of the decedent. In such cases ***interest at the tax interest rate as defined in KRS 131.010(6)*** [~~only eight percent (8%) per annum~~] shall be charged upon the tax from the expiration of ***the*** [~~said~~] eighteen (18) months until the cause of the delay is removed.

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond in the form and to the effect prescribed by the cabinet, for the payment of the taxes and interest.

Section 7. KRS 140.320 is amended to read as follows:

In the event a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value shall cause to be paid, pursuant to regulations issued by the Revenue Cabinet, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest on the unpaid tax at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of eight percent (8%) per annum~~].

Section 8. KRS 143A.110 is amended to read as follows:

In every case, any tax not paid on or before the due date shall bear interest at the ***tax interest rate as defined in KRS 131.010(6)*** [~~rate of ten percent (10%) per annum~~] from the date due until the date of payment.

Section 9. KRS 234.420 is amended to read as follows:

(1) If any liquefied petroleum gas motor fuel dealer neglects or refuses to make the return required by KRS 234.370 or to pay the tax at the time provided, a penalty of twenty percent (20%) thereof and interest at ***tax interest rate as defined in KRS 131.010(6)*** [~~six percent (6%) per annum~~] from the date when due shall be paid as a part of the tax. If collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060.

(2) If any taxpayer subject to the penalty provided in subsection (1) of this section submits in writing to the cabinet his reasons for failure to comply with KRS 234.370, and if the cabinet finds the reasons evidence of justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty exacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to a one percent (1%) penalty if the violation is the first violation by the taxpayer within twelve (12) months.

(3) Any liquefied petroleum gas motor fuel dealer who fails to make any return required under KRS 234.370 within the time required shall pay a penalty of ten dollars ($10.00) to be assessed and collected in the manner provided for the assessment and collection of taxes under KRS 234.310 to 234.440 or in a civil action initiated by the cabinet. In addition such delinquent taxpayer may be compelled to make the required report or return.

SECTION 10. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

***(1) Mobile homes not held for resale by a dealer shall be classified as real property for the purpose of the levy and assessment of ad valorem taxes, regardless of whether or not the wheels or mobile parts have been removed and whether or not the unit rests on a permanent, fixed foundation.***

***(2) Recreational vehicles shall be classified as real property if the wheels or mobile parts have been removed and the unit rests on a permanent, fixed foundation.***

Section 11. KRS 132.720 is amended to read as follows:

As used in KRS 132.260 and 132.720 to ***Section 10 of this Act*** [~~132.750~~], unless the context otherwise requires:

(1) ***"Mobile home," "recreational vehicle,"*** "mobile home park" and "recreational vehicle park" have the same meanings as in KRS 219.320.

(2) "Unit" means any single mobile home or recreational vehicle.

(3) "Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land.

Section 12. KRS 132.730 is amended to read as follows:

All mobile homes and recreational vehicles which are within this state on January 1 each year shall be subject to all ad valorem tax levies applicable to other [~~tangible personal~~] property subject to full state and local rates, except that any mobile home and recreational vehicle not licensed in this state and not remaining within this state for a period of more than ninety (90) days in any twelve (12) month period shall not have a taxable situs in this state unless an occupant is employed in this state.

Section 13. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the Revenue Cabinet. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by the railroad retirement system on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification through December 31 of the year in which application is made.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying said unit, but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home ***or*** [~~,~~] recreational vehicle, ***when classified as real property as provided for in Section 10 of this Act,*** or ***a*** manufactured house may qualify as a residential unit for purposes of the homestead exemption provision [~~provided the unit is classified as real property as defined in KRS 132.750~~].

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification or at the end of the taxation period for which the homestead exemption has been granted .

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

Section 14. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted property by the property valuation administrator or by the Revenue Cabinet, the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted taxes. The omitted tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted tax bill to the sheriff or collector as soon as the omitted [~~poll or~~] property has been finally assessed.

Section 15. KRS 136.020 is amended to read as follows:

[~~(1)~~] The property of all corporations, except where otherwise provided by law, shall be assessed in the name of the corporation in the same manner as that of a natural person, except that, when legally called on, the chief officer shall report a full statement of the property of the corporation for taxation, and, for a failure, shall be subject to the penalties provided by law for a similar failure by a natural person in listing his property.

[~~(2) Each county clerk shall furnish to the Revenue Cabinet, on blanks provided by the cabinet, a statement of the assessed value of the tangible property of all corporations paying a franchise or other tax under this chapter.~~]

Section 16. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other

charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to regulations which shall be promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the Revenue Cabinet, on such forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any such moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. ***Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Revenue Cabinet all such premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year.*** The funds derived from such premium surcharge, except as provided in subsection (2) of this section, shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the volunteer fire department aid fund as provided in KRS 17.250; provided however, that insurance premium surcharge funds collected from the policyholders of any mutual company, cooperative or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1986, shall continue to be paid into the professional fire fighters foundation program fund and the law enforcement foundation program fund as prescribed herein.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in subsection (1) of this section shall be paid by the State Treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300.

Section 17. KRS 140.320 is amended to read as follows:

***If, within five (5) years after the death of the decedent,*** [~~In the event~~] a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value ***was reported*** shall cause to be paid, pursuant to regulations issued by the Revenue Cabinet, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest on the unpaid tax at the rate of eight percent (8%) per annum.

Section 18. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth (10th) of the month, ten dollars ($10) from each fourteen dollars ($14) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the ***Revenue*** Cabinet. The Cabinet ***for Human Resources*** shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 19. KRS 304.11-050 is amended to read as follows:

(1) Effective with all premiums collected during the calendar year 1968, except premiums on lawfully procured surplus lines insurance, every unauthorized insurer shall pay to the ***secretary of revenue*** [~~commissioner~~] before March 1, next succeeding the calendar year in which the insurance was so effectuated, continued, or renewed, a premium tax of two percent (2%) of gross premiums charged for such insurance on subjects resident, located, or to be performed in this state. Such insurance whether procured through negotiation or an application, in whole or in part occurring or made within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured or continued in this state. The term "premium" includes all premiums, membership fees, assessments, dues, and any other consideration for insurance. If the tax prescribed by this section is not paid within the time stated, the tax shall be increased by a penalty of twenty-five percent (25%) and by the amount of an additional penalty computed at the rate of one percent (1%) per month or any part thereof from the date such payment was due to the date paid.

(2) If the policy covers risks or exposures only partly in the state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in the state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as taxable premiums to any other state or states.

(3) Proration of premium taxes due from an industrial insured under a contract procured from an unauthorized insurer having property in states other than Kentucky, shall be determined by rules and regulations promulgated by the ***secretary of revenue*** [~~commissioner~~] using the following criteria where applicable:

(a) Percentage of physical assets in Kentucky;

(b) Percentage of employee payroll in Kentucky;

(c) Percentage of sales in Kentucky; and

(d) Percentage of taxable income reportable in Kentucky.

(4) The ***secretary of revenue, or the*** Attorney General[~~,~~] upon request of the ***secretary of revenue*** [~~commissioner~~], shall proceed in the courts of this state or any other state or in any federal court or agency to recover such tax not paid within the time prescribed in this section.

Section 20. KRS 136.990 is amended to read as follows:

(1) [~~Any county clerk who fails to comply with the provisions of subsection (2) of KRS 136.020 shall be fined not less than ten dollars ($10) nor more than twenty-five dollars ($25).~~

~~(2)~~] Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

***(2)***[~~(3)~~] Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after March 31 of each year.

***(3)***[~~(4)~~] Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

***(4)***[~~(5)~~] Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

***(5)***[~~(6)~~] Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

***(6)***[~~(7)~~] Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

***(7)***[~~(8)~~] Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

***(8)***[~~(9)~~] The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections ***(4) to (6)*** [~~(5) to (7)~~] of this section.

***(9)***[~~(10)~~] If any taxpayer fails to make or file a return as required by KRS 136.090 on or before the due date of the return, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the cabinet shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall a penalty be less than ten dollars ($10).

***(10)***[~~(11)~~] If the tax imposed by KRS 136.070, whether assessed by the cabinet or the taxpayer, or any instalment or portion of the tax, is not paid on or before the date prescribed for its payment, it shall be collected as a part of the tax, interest upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the cabinet.

Section 21. KRS 138.510 is amended to read as follows:

(1) Through June 30, 1990, an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky State Racing Commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until June 30, 1990, tracks with a daily average handle of less than one million two hundred thousand dollars ($1,200,000) shall receive a tax credit amounting to three percent (3%) of money wagered, with one and one-half percent (1.5%) to be allocated to purses, one percent (1%) to capital improvement and one-half percent (.5%) for administration. From July 15, 1986 until June 30, 1990, tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or more shall receive a tax credit amounting to one percent (1%) of money wagered, to be allocated to purses. All money from the tax credit allocated to purses shall be in addition to purse money allocated by contractual agreement or by regulation of the commission. All expenditures of tax credit money shall be reported to and approved by the commission in such form and frequency as the commission by regulation may require. Copies of all [~~such~~] reports shall also be sent to the Legislative Research Commission. An amount equal to three-quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky Thoroughbred Development Fund created and described in KRS 230.400. [~~From July 13, 1984, until September 15, 1988, any track with a daily average handle of less than one million two hundred thousand dollars ($1,200,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated in the same manner as the tax credit is allocated.~~]

(2) Through June 30, 1990 an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky Harness Racing Commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering on racing under the jurisdiction of the Kentucky Harness Racing Commission shall be deducted from the tax and set aside by the Revenue Cabinet and shall be deposited in the Kentucky Standardbred, Quarter Horse, Appaloosa and Arabian Development Fund created and described in KRS 230.770. From July 15, 1982, until June 30, 1990, associations conducting a race meet under the jurisdiction of the Kentucky Harness Racing Commission with a daily average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of three percent (3%) of all money wagered, two percent (2%) to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect and three-quarters of one percent (3/4 of 1%) to be allocated to overnight purses and one-quarter of one percent (1/4 of 1%) to be allocated to the Kentucky Standardbred, Quarter Horse, Appaloosa and Arabian Development Fund. ***These*** [~~Said~~] expenditures shall be reported to and approved by the Harness Racing Commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the Legislative Research Commission. [~~From July 13, 1986, until September 15, 1988, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred, quarter horse, appaloosa and arabian development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.~~]

(3) Effective July 1, 1990, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission. For tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3 1/2%) of all money wagered during the fiscal year. For tracks with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1 1/2%) of all money wagered during the fiscal year. For the purposes of this subsection and subsections (1) and (2) of this section, the daily average handle shall be computed from the amount wagered only at the host track and shall not include money wagered at a receiving track. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the same amount and same manner as provided for in subsections (1) and (2) of this section.

(4) An excise tax is imposed on all tracks not conducting pari-mutuel racing but participating as receiving tracks in intertrack wagering under the jurisdictions of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission. From July 15, 1988 until June 30, 1990, the tax shall be in the amount of five percent (5%) of all money wagered during the fiscal year. After June 30, 1990, the tax shall be in

the amount of three percent (3%) of all money wagered during the fiscal year. After June 30, 1990 an amount equal to two percent (2%) of the amount wagered and deducted from the tax imposed in this subsection shall be deposited in the Thoroughbred Development Fund if the receiving track is under the jurisdiction of the Kentucky State Racing Commission, or the Kentucky Standardbred, Quarter Horse, Appaloosa and Arabian Development Fund, if the receiving track is under the jurisdiction of the Kentucky Harness Racing Commission.

(5) Two-tenths of one percent (.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2) and (3) of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

***(6) For all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission and participating in simulcasting, the host track, as defined in KRS 230.376(4) shall remit those taxes levied under the provisions of this section to the Revenue Cabinet on behalf of both the host track and the receiving track or intertrack facility as defined in KRS 230.376(5). The host track shall also be subject to any interest and penalties imposed by the cabinet relating to remission of these taxes.***

Section 22. KRS 138.530 is amended to read as follows:

(1) The Revenue Cabinet shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made to the Revenue Cabinet ***no later than the fifth business day following the last day of each month during which racing is conducted*** [~~the next business day following each day of racing, during each race meeting~~], and ***it shall be*** accompanied by [~~such~~] reports as prescribed by ***the*** [~~said~~] cabinet. All [~~such~~] funds received by the Revenue Cabinet shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky State Racing Commission shall ***no later than the fifth business day following the last day of each month during which racing is conducted*** [~~daily, during each race meeting,~~] report to the Revenue Cabinet the total amount bet or handled ***during*** the ***month*** [~~preceding day~~] and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky State Racing Commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 23. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or through a telephone account wagering system, or both. Wagers at a receiving track shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to subsection (5) of KRS 230.377.

(2) The commission of a receiving track shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows: twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(4) The deduction for the backside improvement fund, as provided for in KRS 138.515(4) [~~and the deduction for equine drug research provided for in KRS 230.265(3),~~] shall not apply to the commission or pari-mutuel tax of a receiving track.

(5) A receiving track shall be exempt from ***any tax on admission's and*** [~~the admissions tax levied in KRS 138.480 and~~] from any license fee imposed by statute or regulation by the commission of jurisdiction.

Section 24. The following KRS section is repealed:

132.750 When mobile home or recreational vehicle classified as real estate.

Section 25. The provisions of Sections 1 to 9 of this Act shall become effective on August 1, 1990.

The Committee on Judiciary reported **HB 262** with Committee Substitute attached thereto, **HB 349** with Committee Substitute attached thereto, **HB 406** with Committee Substitute attached thereto, **HB 464** with Committee Substitute attached thereto, **HB 480** with Committee Substitute attached thereto, **HB 540** with Committee Substitute attached thereto, **HB 559** with Committee Substitute attached thereto, **HB 601** and **HB 644** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 262,** AN ACT relating to criminal identification.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

***(1) It shall be the duty of each circuit judge to ascertain whether each person appearing before him on a felony charge has been photographed, fingerprinted, and a report made in accordance with KRS 17.110. If the person has not been subjected to the requirements of KRS 17.110, the judge shall cause the requirements of KRS 17.110 to be complied with.***

***(2) Willful or continued noncompliance with the provisions of this section shall be grounds for the removal of the judge by the Judicial Retirement and Removal Commission.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

***(1) It shall be the duty of each district judge to ascertain whether each person appearing before him on a felony charge has been photographed, fingerprinted, and a report made in accordance with KRS 17.110. If the person has not been subjected to the requirements of KRS 17.110, the judge shall cause the requirements of KRS 17.110 to be complied with.***

***(2) Willful or continued noncompliance with the provisions of this section shall be grounds for the removal of the judge by the Judicial Retirement and Removal Commission.***

The Committee Substitute to **HB 262** is as follows:

**HB 262,** AN ACT relating to criminal identification.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 17.110 is amended to read as follows:

(1) All city and county law enforcement agencies shall cause a photograph, a set of fingerprints and a general description report of all persons arrested on a felony charge to be made and two (2) copies of each item forwarded within thirty (30) days after the arrest to the Department of State Police of the Justice Cabinet, in accordance with regulations of the Justice Cabinet. ***Unless the charges are dismisssed or withdrawn at that appearance, the judge shall require any adult person appearing before any court in the Commonwealth on a felony charge, who has not been arrested, to be photographed and fingerprinted, and have a general description made following his arraignment.*** Such agencies shall furnish any other information involving offenses [~~under the penal code~~] or in their possession relative to law enforcement upon request by the Justice Cabinet.

(2) Each city and county law enforcement agency shall advise the Department of State Police of the disposition made of all cases wherein a person has been charged with an offense [~~under the penal code~~].

**HB 349,** AN ACT relating to juries.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 29A.040 is amended to read as follows:

(1) ***A list of persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county*** [~~All voter registration lists~~] shall constitute a master list of prospective jurors. [~~Where possible,~~]

The jury commission shall ***annually*** acquire ***a copy*** [~~copies~~] of ***this list*** [~~these lists~~] from the ***Transportation Cabinet*** [~~official having custody of the required lists~~]. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.

(2) ***The Transportation Cabinet*** [~~Public officers or employes having custody, possession, or control of any of the lists used in making the master list~~] shall ***annually*** furnish a copy of the ***driver's license*** list to the jury commission without charge.

The Committee Substitute to **HB 349** is as follows:

**HB 349,** AN ACT relating to juries.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 29A.040 is amended to read as follows:

(1) ***A list of persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county and*** all voter registration lists shall constitute a master list of prospective jurors. [~~Where possible,~~] The jury commission shall ***annually*** acquire ***a copy*** [~~copies~~] of ***the driver's license list*** [~~these lists~~] from the ***Transportation Cabinet and copies of the voter registration lists from the*** official having custody of the required lists. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.

(2) ***The Transportation Cabinet and*** public officers or employees having custody, possession, or control of any of the lists ***required under subsection (1) of this section*** [~~used in making the master list~~] shall ***annually*** furnish a copy of the list to the jury commission without charge.

**HB 406,** AN ACT relating to the statute of frauds.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 371.010 is amended to read as follows:

No action shall be brought to charge any person:

(1) For any representation or assurance concerning the character, conduct, credit, ability, trade or dealings of another, made with intent that such other may obtain thereby credit, money or goods;

(2) Upon any promise to pay a debt contracted during infancy, or any ratification of a contract or promise made during infancy;

(3) Upon any promise of a personal representative as such to answer any liability of his decedent out of his own estate;

(4) Upon any promise to answer for the debt, default or misdoing of another;

(5) Upon any agreement made in consideration of marriage, except mutual promises to marry;

(6) Upon any contract for the sale of real estate, or any lease thereof for longer than one year;

(7) Upon any agreement that is not to be performed within one year from the making thereof; [~~or~~]

(8) Upon any promise, agreement, or contract for any commission or compensation for the sale or lease of any real estate or for assisting another in the sale or lease of any real estate; ***or***

***(9) Upon any promise, contract, agreement, undertaking or commitment to loan money, to grant, extend or renew credit, or make any financial accommodation to establish a business enterprise or assist an existing business enterprise including, but not limited to the purchase of realty or real property;***

unless the promise, contract, agreement, representation, assurance or ratification, or some memorandum or note thereof, be in writing and signed by the party to be charged therewith, or by his authorized agent. ***It shall not be necessary to express*** the consideration [~~need not be expressed~~] in the writing, but it may be proved when necessary or disproved by parol or other evidence.

The Committee Substitute to **HB 406** is as follows:

**HB 406,** AN ACT relating to the statute of frauds.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 371.010 is amended to read as follows:

No action shall be brought to charge any person:

(1) For any representation or assurance concerning the character, conduct, credit, ability, trade or dealings of another, made with intent that such other may obtain thereby credit, money or goods;

(2) Upon any promise to pay a debt contracted during infancy, or any ratification of a contract or promise made during infancy;

(3) Upon any promise of a personal representative as such to answer any liability of his decedent out of his own estate;

(4) Upon any promise to answer for the debt, default or misdoing of another;

(5) Upon any agreement made in consideration of marriage, except mutual promises to marry;

(6) Upon any contract for the sale of real estate, or any lease thereof for longer than one year;

(7) Upon any agreement that is not to be performed within one year from the making thereof; [~~or~~]

(8) Upon any promise, agreement, or contract for any commission or compensation for the sale or lease of any real estate or for assisting another in the sale or lease of any real estate; ***or***

***(9) Upon any promise, contract, agreement, undertaking or commitment to loan money, to grant, extend or renew credit, or make any financial accommodation to establish or assist a business enterprise or an existing business enterprise including, but not limited to the purchase of realty or real property, but this subsection shall not apply to agreements pursuant to which credit is extended by means of a credit card or similar device, or to consumer credit transactions;***

unless the promise, contract, agreement, representation, assurance or ratification, or some memorandum or note thereof, be in writing and signed by the party to be charged therewith, or by his authorized agent. ***It shall not be necessary to express*** the consideration [~~need not be expressed~~] in the writing, but it may be proved when necessary or disproved by parol or other evidence.

**HB 464**, AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

***(1) A person is guilty of homicide by vehicle when he:***

***(a) Operates a motor vehicle in violation of KRS 189A.010, and as a result of his operation of the motor vehicle;***

***(b) Causes the death of a person, either in a single incident or as a result of a single course of conduct.***

***(2) Provisions of KRS 501.050 to the contrary notwithstanding, no culpable mental state, other than that defined in KRS 189A.010, shall be required for a conviction under this section.***

***(3) Homicide by vehicle is a Class B felony.***

Section 2. KRS 507.010 is amended to read as follows:

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, [~~or~~] reckless homicide, ***or homicide by vehicle.***

The Committee Substitute to **HB 464** is as follows:

**HB 464**, AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

***(1) A person is guilty of vehicular homicide when he operates a motor vehicle in violation of KRS 189A.010, and as a result of operating a motor vehicle he causes the death of another person.***

***(2) Provisions of KRS 501.050 to the contrary notwithstanding, no culpable mental state, other than that defined in KRS 189A.010, shall be required for a conviction under this section.***

***(3) Vehicular homicide is a Class B felony.***

***(4) This section shall not be construed to preclude prosecution or conviction for any other offense defined in KRS Chapter 507; but no person shall be convicted of both vehicular homicide and another degree of criminal homicide as defined in KRS Chapter 507 for the same act against the same person. A conviction under KRS 189A.010 shall not preclude a conviction for vehicular homicide or any other degree of criminal homicide.***

Section 2. KRS 507.010 is amended to read as follows:

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, [~~or~~] reckless homicide***, or vehicular homicide***.

Section 3. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the board of parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. Provided, however, that the sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution, provided, however, such person may be transferred to another institution pursuant to rules and regulations of the Corrections Cabinet.

***(6) Notwithstanding any provision of this chapter to the contrary, the court may order that a sentence imposed for any degree of criminal homicide as defined in KRS Chapter 507 shall run consecutively with any other sentence which the defendant shall serve.***

**HB 480**, AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 514.100 is amended to read as follows:

(1) A person is guilty of the unauthorized use of an automobile or other propelled vehicle when he knowingly operates, exercises control over, or otherwise uses such vehicle without consent of the owner or person having legal possession thereof.

(2) Unauthorized use of an automobile or other propelled vehicle is a Class A misdemeanor unless the defendant has previously been convicted of:

***(a) This offense;***

***(b) Violation of KRS 514.030 for having stolen an automobile or other propelled vehicle;***

***(c) Theft of motor vehicle parts, in this or another jurisdiction;***

***(d) Possession of stolen motor vehicle parts, in this or another jurisdiction;***

***(e) Theft of a motor vehicle in another jurisdiction; or***

***(f) Interstate transportation of a stolen motor*** [~~this offense, or of violation of KRS 514.030 for having stolen an automobile or other propelled~~] vehicle in which case it shall be a Class D felony.

The Committee Substitute to **HB 480** is as follows:

**HB 480**, AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 514.100 is amended to read as follows:

(1) A person is guilty of the unauthorized use of an automobile or other propelled vehicle when he knowingly operates, exercises control over, or otherwise uses such vehicle without consent of the owner or person having legal possession thereof.

(2) Unauthorized use of an automobile or other propelled vehicle is a Class A misdemeanor unless the defendant has previously been convicted of*:*

***(a) This offense in this state, or a similar offense in another jurisdiction;***

***(b) Violation of KRS 514.030 for having stolen an automobile or other propelled vehicle;***

***(c) Theft of motor vehicle parts, in this state or another jurisdiction;***

***(d) Possession of stolen motor vehicle parts, in this state or another jurisdiction;***

***(e) Theft of a motor vehicle in another jurisdiction; or***

***(f) Interstate transportation of a stolen motor*** [~~this offense, or of violation of KRS 514.030 for having stolen an automobile or other propelled~~] vehicle*;* in which case it shall be a Class D felony.

**HB 540**, AN ACT relating to proceedings in death penalty cases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

***(1) In cases in which the death penalty is sought, there may be a review of all pretrial proceedings by the Supreme Court upon a determination by the trial judge under Section 2 of this Act that review is appropriate. The review shall be initiated by the trial judge's filing in the office of the circuit clerk and delivering to the parties a report certifying that all pretrial proceedings in the case have been completed and that the case stands ready for trial. Within ten (10) days after the filing of the report or the receipt of transcripts of the proceedings, whichever is later, the prosecutor and the defendant may each file with the circuit clerk and serve upon the opposing party a report identifying all areas of the pretrial proceedings with respect to which reversible error may arguably have occurred. Either party may consolidate with the report an application for appeal with respect to any order, decision, or judgment entered in the case. Any application for appeal shall be in the form otherwise appropriate, but:***

***(a) Any application for appeal shall be filed with the circuit clerk rather than the clerk of the Supreme Court;***

***(b) The opposing party shall not be required or permitted to respond to an application for appeal; and***

***(c) No certificate of immediate review shall be required for the filing of the application for appeal.***

***(2) The reports of the trial judge, prosecutor, and defendant under subsection (1) of this section shall be in the form of standard questionnaires prepared and supplied by the Supreme Court. The questionnaires shall be designed to determine whether there is arguably any existence of reversible error with respect to any of the following matters:***

*(a) Any proceedings with respect to change of venue;*

*(b) Any proceedings with respect to recusal of the trial judge;*

*(c) Any challenge to the jury array;*

*(d) Any motion to suppress evidence;*

*(e) Any motion for psychiatric or other medical evaluation; and*

*(f) Any other matter deemed appropriate by the Supreme Court.*

*(3) Upon the filing of the reports of the parties, the circuit clerk shall transmit to the Supreme Court the report of the trial judge, the transcripts of proceedings, and the reports of the parties together with any application for appeal consolidated therewith. A copy of all of the foregoing shall also be delivered by the circuit clerk to the Attorney General.*

*(4) The Supreme Court shall issue an order granting review of the pretrial proceedings, or portions thereof, or denying review within twenty (20) days of the date on which the case was received. The order of the Supreme Court shall identify the matters which shall be subject to review, and the matters may include, but need not be limited to, any matters called to the court's attention in any of the reports or in any application for appeal. No notice of appeal shall be required to be filed if review of the pretrial proceedings is granted. An order granting review of pretrial proceedings shall specify the period of time within which each party shall file briefs and reply briefs with respect to the matters identified in the Supreme Court's order granting review. The Supreme Court may order oral argument or may render a decision on the record and the briefs.*

*(5) If requested by the Commonwealth's attorney, the Attorney General shall assist in the review and appeal provided for in this section.*

*(6) Review of any matter under this section shall, as to any question passed on in the review, be res judicata as to the question and shall be deemed to be the law of the case.*

*(7) The procedure under this section shall not apply to any ruling or order made, invoked, or sought subsequent to the filing of the report of the trial judge.*

*(8) The failure of either party to assert the rights given in this section, or the failure of the Supreme Court to grant review, shall not waive the right to posttrial review of any question review of which could be sought under this section and shall not constitute an adjudication as to such question.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

*Prior to the filing of a report by the trial judge under Section 1 of this Act certifying that pretrial proceedings are complete, the court shall conduct a hearing to determine if an interim appellate review of pretrial rulings is appropriate. The court shall hear from the state and the defense as to whether the delay to be caused by interim appellate review outweighs the need for the review. The court shall order the review and initiate the procedure contained in Section 1 of this Act unless the court concludes and enters an order to the effect that interim appellate review would not serve the ends of justice in the case. An order obviating interim appellate review shall not be appealable.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

*(1) The Supreme Court of Kentucky shall establish, by rules, a unified review procedure to provide for the presentation to the sentencing court and to the Supreme Court of all possible challenges to the trial, conviction, sentence, and detention of defendants upon whom the sentence of death may be imposed. This unified review procedure shall govern both pretrial and posttrial appellate review of death penalty cases.*

*(2) The Supreme Court shall establish, by rules, a series of check lists to be utilized by the trial court, the Commonwealth's attorney, and defense counsel prior to, during, and after the trial of cases in which the death penalty is sought, to make certain that all possible matters which could be raised in defense have been considered by the defendant and defense counsel and either asserted in a timely and correct manner or waived in accordance with applicable legal requirements, so that, for purposes of any pretrial review and the trial and posttrial review, the record and transcript of proceedings will be complete for a review by the sentencing court and the Supreme Court of all possible challenges to the trial, conviction, sentence, and detention of the defendant.*

*(3) Nothing in this section or in the rules of the Supreme Court shall limit or restrict the grounds of review or suspend the rights or remedies available through the procedures governing the writ of habeas corpus.*

***(4) The procedures governing the writ of habeas corpus may be employed to assert rights or seek remedies if the procedures established in the rules of the Supreme Court as applied to the petitioner are inadequate or ineffective in any constitutional sense.***

The Committee Substitute to **HB 540** is as follows:

**HB 540,** AN ACT relating to proceedings in death penalty cases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

***(1) The Supreme Court of Kentucky shall establish, by rules, a unified review procedure to provide for the presentation to the sentencing court and to the Supreme Court of all possible challenges to the trial, conviction, sentence, and detention of defendants upon whom the sentence of death has been imposed.***

***(2) The Supreme Court shall establish, by rules, a series of check lists to be utilized by the trial court, the Commonwealth's attorney, and defense counsel prior to, during, and after the trial of cases in which the death penalty is sought, to make certain that all possible matters which could be raised in defense have been considered by the defendant and defense counsel and either asserted in a timely and correct manner or waived in accordance with applicable legal requirements, so that the record and transcript of proceedings will be complete for a review by the sentencing court and the Supreme Court of all possible challenges to the trial, conviction, sentence, and detention of the defendant.***

***(3) The procedures established in the Rules of Criminal Procedure regarding post-conviction motions may be employed in death penalty cases only to the extent that the rules established to implement this Act are inadequate or ineffective as applied to a particular case to comport with the requirements of the United States Constitution.***

**HB 559,** AN ACT relating to liens.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business*,* [~~(~~]subsection (9) of KRS 355.1-201*,*[~~)~~] other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license issued by the Commonwealth of Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.

(4) If any livestock subject to the lien of a security interest is sold at public auction through a stockyard licensed by the Commonwealth of Kentucky in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to

the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

(7) A buyer other than a buyer in ordinary course of business*,* [(]subsection (1) of this section*,*[)] takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five (45) days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five (45) day period.

***(8) (a) A fee for collecting the liens referred to in KRS 355.9-307 shall be paid to the following:***

***1. The "tobacco warehouseman" referred to in subsection (2) of this section;***

***2. The "entity purchasing said crop" referred to in subsection (3) of this section;***

***3. The "stockyard" referred to in subsection (4) of this section; and***

***4. The "organization selling such horse" referred to in subsection (6) of this section.***

***(b) The fee shall be ten dollars ($10.00) for each individual lien collected, whether by check or other instrument payable jointly to the debtor and the lien holder.***

***(c) The ten dollar ($10.00) collection fee shall be withheld, by the respective entities stated in paragraph (a) of this subsection, from the check or other instrument payable jointly to the debtor and the lien holder, and the lien holder shall have an unqualified right to full reimbursement from the debtor for the payment of the collection fees.***

***(d) As used in this subsection, the word "debtor" shall mean and include, in the case of joint ownership of property subject to the lien of a security interest, only those joint owners who are debtors of the lien holder, and the ten dollar ($10.00) collection fee, in all cases, shall be considered to be, on a pro rata basis, a deduction only from the shares of the joint owners who are debtors of the lien holder.***

The Committee Substitute to **HB 559** is as follows:

**HB 559**, AN ACT relating to liens.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business*,* [(]subsection (9) of KRS 355.1-201*,*[)] other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license issued by the Commonwealth of Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.

(4) If any livestock subject to the lien of a security interest is sold at public auction through a stockyard licensed by the Commonwealth of Kentucky in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling

agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

(7) A buyer other than a buyer in ordinary course of business, [(]subsection (1) of this section,[)] takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five (45) days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five (45) day period.

***(8) (a) A fee for collecting the liens referred to in KRS 355.9-307 may be charged by the following:***

***1. The "tobacco warehouseman" referred to in subsection (2) of this section;***

***2. The "entity purchasing said crop" referred to in subsection (3) of this section;***

***3. The "stockyard" referred to in subsection (4) of this section; and***

***4. The "organization selling such horse" referred to in subsection (6) of this section.***

***(b) The fee shall not exceed two dollars ($2.00) for each individual lien collected, whether by check or other instrument payable jointly to the debtor and the lien holder.***

***(c) The collection fee shall be withheld, by the respective entities stated in paragraph (a) of this subsection, from the check or other instrument payable jointly to the debtor and the lien holder, and the lien holder shall have an unqualified right to full reimbursement from the debtor for the payment of the collection fees.***

***(d) As used in this subsection, the word "debtor" shall mean and include, in the case of joint ownership of property subject to the lien of a security interest, only those joint owners who are debtors of the lien holder, and the collection fee, in all cases, shall be considered to be, on a pro rata basis, a deduction only from the shares of the joint owners who are debtors of the lien holder.***

**HB 601,** AN ACT relating to prosecutors and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 15.715 is amended to read as follows:

(1) In the event of the incapacity, refusal without sufficient grounds, inability, conflict of interest of the local prosecutor, or his failure to act in a certain case or cases, the council may authorize, by the vote of no less than five (5) of its members, the Attorney General to initiate, intervene, or supersede a local prosecutor for the purpose of prosecuting the criminal business in question of the Commonwealth in that circuit or district after due notice having been given to the local prosecutor.

(2) When the Attorney General shall proceed under subsection (1) of this section, he shall petition the Circuit Court of that circuit to disqualify the county attorney or Commonwealth's attorney for good cause shown, when the county attorney or Commonwealth's attorney refuses to disqualify himself. The action of the Circuit Court shall be subject to review according to the Rules of the Supreme Court.

(3) ***If the Attorney General's petition to disqualify the local prosecutor was sustained by the Circuit Court, the Attorney General shall file and prosecute a complaint against the local prosecutor pursuant to KRS 61.120.***

***(4) If the office of Commonwealth's attorney or the office of county attorney becomes vacant, the Attorney General or his designee shall perform the duties of that office until such time as the successor of that Commonwealth's attorney or of that county attorney shall be appointed or elected as elsewhere***

***provided by law or until the Commonwealth's attorney or county attorney resumes the duties of his office as provided by law.***

***(5)*** When the Attorney General has been authorized to participate in a given case pursuant to subsections (1), [~~and~~] (2), ***(3) and (4)*** of this section, he may, at his own discretion, direct a Commonwealth's attorney or county attorney from another circuit or district to serve as the special prosecutor, who shall be reimbursed for all of his actual expenses.

***(6)***[~~(4)~~] The Attorney General shall have the duty, within the 48th Judicial Circuit, to prosecute any person who receives compensation from the Treasury of the Commonwealth of Kentucky for all violations of the criminal and penal laws arising out of, involving or in connection with state funds, or the sale or transfer of goods or services by or to the Commonwealth or any of its political subdivisions, and specifically including, but not limited to, all violations set forth in KRS Chapters 521 and 522. Nothing herein shall be construed to change the venue provision presently existing under Kentucky law as of July 15, 1980.

***(7)***[~~(5)~~] Whenever the Attorney General shall undertake any of the actions prescribed in this section, he shall be authorized to exercise all powers and perform all duties in respect to such criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas and processes of any kind, and to appear before all grand juries, courts, or tribunals.

Section 2. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of seventy-five thousand (75,000) or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Finance and Administration Cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Finance and Administration Cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Finance and Administration Cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Finance and Administration Cabinet.

***(8) If the office of any Commonwealth's attorney becomes vacant for any reason, the employment of each person who was employed as staff of that Commonwealth's attorney may be continued or terminated in the discretion of the Attorney General until such time as that Commonwealth's attorney's successor shall be appointed or elected as elsewhere provided by law or until the Commonwealth's attorney resumes the duties of his office as provided by law.***

Section 3. KRS 15.765 is amended to read as follows:

(1) Each county attorney shall receive, for prosecutorial duties, an annual salary to be paid out of the State Treasury which shall be the total compensation as county attorney which he received during the calendar year 1976, but which in no event shall be less than twenty thousand dollars ($20,000). Except, however, the

annual salary of each county attorney shall be equal to that of each Commonwealth's attorney who is not prohibited from the private practice of law as provided in KRS 15.755(5), effective January 1, 1990.

(2) Each county attorney shall be paid each month the sum of two hundred fifty dollars ($250), which sum is declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(3) In order to equate the compensation of county attorneys with the purchasing power of the dollar, the Finance and Administration Cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Finance and Administration Cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Finance and Administration Cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Finance and Administration Cabinet.

(4) The county attorney shall not be prohibited from engaging in the private practice of law.

***(5) If the office of any county attorney becomes vacant for any reason, the employment of each person who was employed as staff of that county attorney may be continued or terminated in the discretion of the Attorney General until such time as that county attorney's successor shall be appointed or elected as elsewhere provided by law or until the county attorney resumes the duties of his office as provided by law.***

Section 4. KRS 61.120 is amended to read as follows:

***(1)*** If any officer paid in whole or in part out of the State Treasury or by any county fails or neglects to perform his duties, without a good excuse set out in full by his affidavit and certified by order of court to the Finance and Administration Cabinet or other paying officer, there shall be thereafter deducted from his salary such an amount as the total number of days during the year in which he failed or neglected to discharge his duty bears to the whole number of days in the year for which he received compensation. So much of the amount deducted as is necessary shall be applied to the payment of the special officer who performs the duty of the officer so failing.

***(2) Before the court enters an order under KRS 61.130, the court or judge designated in KRS 61.130 shall inform the officer accused of failure to perform or neglect of duty of the accusations and shall conduct a hearing on the accusations. At the conclusion of the hearing, the court or judge shall enter findings of facts and conclusions of law and an appropriate order. Either party may appeal the order to the Court of Appeals in accordance with the Rules of Civil Procedure, and such appeal shall be advanced on the docket for immediate review. Provided, however, that the notice of appeal and order appealed from shall be filed with the clerk of the Court of Appeals within thirty (30) days after the order appealed from was filed with the county clerk or Circuit Court clerk.***

***(3) The court or judge designated in KRS 61.130 may appoint a hearing commissioner to conduct the hearing authorized by subsection (2) of this section. If a hearing commissioner is appointed, the case shall proceed in accordance with the Rules of Civil Procedure regarding hearing commissioners.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

***The Prosecutors Advisory Council shall have the power to issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers and documents as it may deem necessary for investigation of any matter that it is authorized to consider or reasonably necessary therefor. Subpoenas may be signed and oaths administered by any member of the council. Subpoenas so issued shall be served by any sheriff, constable, police officer, or other peace officer at the request of the council, and a return of subpoena shall be made to the council in the same manner as similar process in the Circuit Court. Any person who refuses to testify, testifies falsely, or fails to appear when subpoenaed, or fails or refuses to produce documents, records or other such material when subpoenaed, or fails or refuses to serve a subpoena or execute a return thereon, upon citation by the Franklin Circuit Court and after hearing by the court, shall be subject to the same order and penalties to which persons before that court are subject. Any Circuit Court, upon application of the council or the Attorney General, may compel the attendance of witnesses, the production of documents, records or other such material, and the giving of testimony before the council.***

Section 6. Whereas, existing statutes are deficient in addressing the matters remedied by this Act, an emergency is hereby declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

**HB 644,** AN ACT relating to determination of paternity.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, ***putative father,*** child, person or agency substantially contributing to the support of the child. Such action shall be brought by the county attorney upon the request of such complainant herein authorized.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant herein authorized.

The Committee on Judiciary reported **HB 500** and **SB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 500,** AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the federal communications commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the federal communications commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers and it shall be unlawful for any car, automobile or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for said car, to have, or be equipped with such sets or apparatus even though said car is owned by an officer. Provided, however, the provisions of this section shall not apply to any automobile or other vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the federal communications commission or other federal agency having the authority to license same.

*(2)* ***It shall be unlawful for any person, except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to intentionally or wantonly transmit on any mobile radio set or apparatus capable of transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios any message not authorized by the department licensee, when such message is known to be a false report or is done to interfere with any official transmission or is done to facilitate any criminal activity or to avoid apprehension by law enforcement officers.***

*(3)* Any person guilty of, ***with the exceptions of subsection (2),*** violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50.00) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned. ***Any person guilty of violating subsection (2) of this section shall be guilty of a felony, shall be punished by a fine of not less than one thousand dollars ($1,000) and not exceeding five thousand dollars ($5,000), or imprisoned in the penitentiary one (1) year not less than nor more than five (5) years, or both.***

*(4)*[~~(3)~~] It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed,

forfeited or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited or escheated as above provided without a conviction of the person charged with violating this section.

***(5)***[~~(4)~~] Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;

(b) A commercial or educational radio or television station, licensed by the federal communications commission, at its place of business; or

(c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers, disaster and emergency services personnel authorized in writing by the state director of disaster and emergency service [~~(~~]for state personnel[~~)~~] or chief executive of the city or county [~~(~~]for their respective personnel[~~)~~]; peace officers authorized in writing by the head of their law enforcement agency, Commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.

***(6)***[~~(5)~~] The secretary of finance ***shall be*** [is ~~hereby~~] empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other non-police persons for utilization in the N.O.A.A. weather radio system.

SB 70, AN ACT relating to enforcement of foreign judgments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

***In this Act "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this Commonwealth.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

***A copy of any foreign judgment authenticated in accordance with the act of Congress or the statutes of this state may be filed in the office of the clerk of any court of competent jurisdiction of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of any court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a court of this state and may be enforced or satisfied in like manner.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

***(1) At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of the court an affidavit setting forth the name and the last known post office address of the judgment debtor, and the judgment creditor.***

***(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.***

***(3) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until twenty (20) days after the date the judgment is filed.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

***(1) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.***

***(2) If the judgment debtor shows the court any ground upon which enforcement of a judgment of any court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

***A person filing a foreign judgment shall pay to the clerk of the court the amount as otherwise provided by law for filing suit in the courts of this state.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

***The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under Sections 1 to 5 of this Act remains unimpaired.***

The Committee on Natural Resources and Environmental Protection reported **HB 446** with Committee Substitute attached thereto, **SB 141**, **SB 149**, **SB 154**, **SB 156**, **SB 194**, **SB 202**, **SB 205**, **SB 218** with Committee Amendment attached thereto, and **SB 255** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 446**, AN ACT relating to wastewater discharge permit fees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of this chapter, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any [~~rule or~~] regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. ***The*** [~~Such~~] funds received by the cabinet shall be deposited in the State Treasury to the account of the cabinet;

(13) Request and receive the assistance of any state or municipal educational institution, experiment

station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;

(14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, [~~rule,~~] regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of this chapter, or the regulations promulgated pursuant thereto and requiring the adoption of ***the*** [~~such~~] remedial measures [~~as~~] the cabinet ***deems*** [~~may deem~~] necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe and require that applications be accompanied by plans, specifications, and [~~such~~] other information [~~as~~] the cabinet deems necessary for the following permits:

(a) Permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; however, the cabinet may refuse to issue ***the*** [~~such~~] permits to any person, or any partnership, corporation, etc. of which ***the*** [~~such~~] person owns more than ten percent (10%) interest, who has improperly constructed, operated or maintained a sewage system willfully, through negligence, or because of lack of proper knowledge or qualifications until ***the*** [~~such~~] time [~~as~~] that person demonstrates proper qualifications to the cabinet and provides the cabinet with a performance bond;

(b) Permits for the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or

(c) Permits for the establishment or construction and the operation or maintenance of waste disposal sites and facilities.

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include, but not be limited to, the administrative costs of a hearing held as a result of ***the*** [~~such~~] exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any [~~such~~] charge***, and that certain nonprofit organizations shall be charged lower fees to process water discharge permits under KRS 224.034(5)***;

(21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device or test and the methodologies and procedures for the use of ***the*** [~~such~~] equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning ***the*** [~~such~~] monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and [~~such~~] other information [~~as~~] the cabinet may require;

(24) Promulgate [~~rules,~~] regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain, but not be limited to, the provisions set forth in KRS 224.888, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain, but not be limited to, the following:

(a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;

(b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;

(c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future; and

(d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of ***the*** [~~such~~] wastes;

The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

(25) Perform [~~such~~] other and further acts [~~as may be~~] necessary to carry out the duties and responsibilities herein described;

(26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards; and

(27) Promulgate [~~rules and~~] regulations concerning the bonding provisions of subsection (19)(a) of this section, setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release and forfeiture of ***the*** [~~such~~] bonds. All funds from the forfeiture of bonds required pursuant to this section shall be placed in the State Treasury and credited to a special trust and agency account which shall not lapse. ***The*** [~~Such~~] account shall be known as the "sewage treatment system rehabilitation fund" and all moneys placed in the fund shall be used for the elimination of nuisances and hazards created by sewage systems which were improperly built, operated, or maintained, and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided; and

(28) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet.

Section 2. KRS 224.034 is amended to read as follows:

(1) The cabinet may issue federal permits pursuant to 33 U.S.C. Sec. 1342(b) of the federal water pollution control act (33 U.S.C. Sec. 1251 et. seq.) subject to the conditions imposed in 33 U.S.C. Sec. 1342(b) and 1342(d). Any exemptions granted in the issuance of NPDES permits shall be pursuant to 33 U.S.C. Sec. 1311, 1312 and 1326(a).

(2) The cabinet may certify pursuant to 33 U.S.C. Sec. 1341 that applicants for a federal permit for the construction or operation of facilities which may result in a discharge into the waters of the Commonwealth will comply with the applicable provisions of the federal water pollution control act (33 U.S.C. Sec. 1251 et. seq.).

(3) The cabinet shall not undertake either of the actions authorized in subsections (1) or (2) of this section unless the governor of the Commonwealth has determined that such activity will be in the best interests of the environment and the people of the Commonwealth.

(4) The cabinet shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement or other condition which is more stringent than the effluent limitation, monitoring requirement or other condition which would have been applicable under federal regulation if the permit were issued by the federal government.

***(5) Nonprofit organizations which have been qualified under Section 501 (c) (3) of the Internal Revenue Code and which operate their own treatment facilities shall be charged a fee no greater than fifty dollars ($50.00) by the cabinet to process a construction permit, nor a fee greater than twenty dollars ($20.00) per year for an operating permit for one (1) facility. These fees shall in no case be higher than the fees charged by the cabinet to process permit applications for comparable privately owned facilities.***

The Committee Substitute to **HB 446** is as follows:

**HB 446,** AN ACT relating to wastewater discharge permit fees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of this chapter, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any [~~rule or~~] regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. ***The*** [~~Such~~] funds received by the cabinet shall be deposited in the State Treasury to the account of the cabinet;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;

(14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, [~~rule,~~] regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of this chapter, or the regulations promulgated pursuant thereto and requiring the adoption of ***the*** [~~such~~] remedial measures [~~as~~] the cabinet ***deems*** [~~may deem~~] necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe and require that applications be accompanied by plans, specifications, and [~~such~~] other information [~~as~~] the cabinet deems necessary for the following permits:

(a) Permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; however, the cabinet may refuse to issue ***the*** [~~such~~] permits to any person, or any partnership, corporation, etc. of which ***the*** [~~such~~] person owns more than ten percent (10%) interest, who has improperly constructed, operated or maintained a sewage system willfully, through negligence, or because of lack of proper knowledge or qualifications until ***the*** [~~such~~] time [~~as~~] that person demonstrates proper qualifications to the cabinet and provides the cabinet with a performance bond;

(b) Permits for the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or

(c) Permits for the establishment or construction and the operation or maintenance of waste disposal sites and facilities.

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include***,*** but not be limited to***,*** the administrative costs of a hearing held as a result of ***the*** [~~such~~] exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any [~~such~~] charge***, and that certain nonprofit organizations shall be charged lower fees to process water discharge permits under KRS 224.034(5)***;

(21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device or test and the methodologies and procedures for the use of ***the*** [~~such~~] equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning ***the*** [~~such~~] monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and [~~such~~] other information [~~as~~] the cabinet may require;

(24) Promulgate [~~rules,~~] regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain, but not be limited to, the provisions set forth in KRS 224.888, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain, but not be limited to, the following:

(a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;

(b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;

(c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future; and

(d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of ***the*** [~~such~~] wastes;

The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

(25) Perform [~~such~~] other and further acts [~~as may be~~] necessary to carry out the duties and responsibilities herein described;

(26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary

sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards; and

(27) Promulgate [~~rules and~~] regulations concerning the bonding provisions of subsection (19)(a) of this section, setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release and forfeiture of ***the*** [~~such~~] bonds. All funds from the forfeiture of bonds required pursuant to this section shall be placed in the State Treasury and credited to a special trust and agency account which shall not lapse. ***The*** [~~Such~~] account shall be known as the "sewage treatment system rehabilitation fund" and all moneys placed in the fund shall be used for the elimination of nuisances and hazards created by sewage systems which were improperly built, operated, or maintained, and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided; and

(28) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet.

Section 2. KRS 224.034 is amended to read as follows:

(1) The cabinet may issue federal permits pursuant to 33 U.S.C. Sec. 1342(b) of the federal water pollution control act (33 U.S.C. Sec. 1251 et. seq.) subject to the conditions imposed in 33 U.S.C. Sec. 1342(b) and 1342(d). Any exemptions granted in the issuance of NPDES permits shall be pursuant to 33 U.S.C. Sec. 1311, 1312 and 1326(a).

(2) The cabinet may certify pursuant to 33 U.S.C. Sec. 1341 that applicants for a federal permit for the construction or operation of facilities which may result in a discharge into the waters of the Commonwealth will comply with the applicable provisions of the federal water pollution control act (33 U.S.C. Sec. 1251 et. seq.).

(3) The cabinet shall not undertake either of the actions authorized in subsections (1) or (2) of this section unless the governor of the Commonwealth has determined that such activity will be in the best interests of the environment and the people of the Commonwealth.

(4) The cabinet shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement or other condition which is more stringent than the effluent limitation, monitoring requirement or other condition which would have been applicable under federal regulation if the permit were issued by the federal government.

***(5) Nonprofit organizations which have been qualified under Section 501 (c) (3) of the Internal Revenue Code and which operate their own treatment facilities and which are designated for capacities less than ten thousand (10,000) gallons per day shall be charged a fee no greater than fifty dollars ($50.00) by the cabinet to process a construction permit, nor a fee greater than twenty dollars ($20.00) per year for an operating permit for one (1) facility. These fees shall in no case be higher than the fees charged by the cabinet to process permit applications for comparable privately owned facilities. This section shall not apply to any school or waterworks owned by a water district, water association or municipality and established pursuant to KRS Chapters 74 or 106.***

**SB 141,** AN ACT relating to surface coal mining operations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for ***the*** [~~said~~] violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which ***the*** [~~such~~] violation continues, and in addition, may be enjoined from continuing ***the*** [~~such~~] violations as [~~hereinafter~~] provided in this section; ***except*** [~~provided, however,~~] that any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for ***the*** [~~such~~] abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which ***the*** [~~such~~] violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of ***the***

[~~such~~] method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. ***The*** [~~Such~~] penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's ***Department of Law*** [~~office of general counsel, or upon the secretary's request, by the attorney general~~]. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet [~~or by the attorney general on its behalf~~] for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the cabinet pursuant to KRS 350.029 or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing ***the*** [~~such~~] violations [~~as hereinafter provided~~]. ***Each day shall constitute a separate violation. In addition to the foregoing penalties, any person or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057 as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed an additional civil penalty of not less than seven hundred and fifty dollars ($750) for each day during which the violation continues.*** [~~Each day shall constitute a separate violation.~~] However, the penalties provided [~~for~~] in subsection (1) of this section shall apply in lieu of the penalties provided [~~for~~] in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) It shall be the duty of the cabinet's ***Department of Law*** [~~office of general counsel or, upon the secretary's request, of the attorney general~~] to bring an action for the recovery of [~~the~~] penalties [~~herein provided for~~] and to bring an action for a restraining order, temporary or permanent injunction, against any operator or [~~other~~] person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet [~~or by the attorney general on its behalf~~] for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any person who [~~shall~~] knowingly and willfully ***violates*** [~~violate~~] any of the provisions of this chapter, except as provided in subsection (5) of this section or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which ***the*** [~~such~~] violation occurs may constitute a separate offense.

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the cabinet pursuant to KRS 350.029 or administrative regulations promulgated pursuant thereto, with the intent to violate such laws, shall be guilty of a Class D felony and upon conviction [~~thereof~~] shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor

and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who ***willfully and knowingly resists, prevents, impedes or interferes*** [~~shall willfully resist, prevent, impede, or interfere~~] with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) ***When*** [~~Whenever~~] a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of ***the*** [~~such~~] corporation who willfully and knowingly authorized, ordered, or carried out ***the*** [~~such~~] violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Any person found in violation of KRS 350.060(11) shall be fined not more than five hundred dollars ($500) for each violation, nor less than fifty dollars ($50).

(11) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(12) The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet division of abandoned lands shall have the authority to approve proposed in-kind projects and to recommend such projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet ***may*** [~~is authorized to~~] prepare and promulgate [~~such~~] administrative regulations as [~~are~~] necessary to implement and administer the provisions of this subsection.

**SB 149,** AN ACT relating to surface coal mining operations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. ***The*** [~~Such~~] activities ***shall*** include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. ***The*** [~~Such~~] activities shall not include the extraction of coal by a landowner ***of fifty (50) tons or less within twelve (12) successive calendar months*** for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, ***twenty-five (25)*** [~~two hundred fifty (250)~~] tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which ***the*** [~~such~~] activities occur or where ***the*** [~~such~~] activities disturb the natural land surface. ***The*** [~~Such~~] areas shall also include any adjacent land the use of which is incidental to ***the*** [~~any such~~] activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of ***the*** [~~such~~] activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to ***the*** [~~such~~] activities. This definition ***shall include*** [~~includes~~] the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use ***of fifty (50) tons or less within twelve (12) successive calendar months*** from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, ***twenty-five (25)*** [~~two hundred fifty (250)~~] tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of ***the*** [~~such~~] operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means ***the*** [~~such~~] material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. [~~Such~~] Certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.010(6).

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky development finance authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 2. KRS 350.053 is amended to read as follows:

(1) Authorized representatives of the ***Office of*** Special Investigations [~~section~~] of the cabinet and all peace officers shall seize and take possession of [~~any and~~] all instrumentalities willfully and knowingly used in the mining of coal without a permit in violation of KRS 350.060(1) or willfully and knowingly used for the removal of more than ***twenty-five (25)*** [~~two hundred fifty (250)~~] tons of coal during coal exploration in violation of KRS 350.057(3).

(2) Upon conviction of any person for the willful and knowing violation of KRS 350.060(1) or 350.057(3), the court shall order the machinery, trucks, and earth moving equipment, and materials used in furtherance of the crime forfeited and sold at public auction. Proceeds from ***the*** [~~such~~] sale shall be deposited in the "illegal mining reclamation fund" established by KRS 350.054.

(3) All property seized under subsection (1) of this section shall be subject to the right of any owner or lienor whose lien is valid and recorded to intervene and upon trial or special hearing held for that purpose before the court establish his rights in the property by proving that the property was being used in connection with mining without a permit without the knowledge, consent or approval of the owner or lienor. If the owner of the property does so prove, the court may order the property restored to him. If the lienor so proves, the court may order a sale of the property at public auction with the lienor receiving from ***the*** [~~such~~] sale the amount of his outstanding lien. However, the cabinet shall deliver any seized property to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the cabinet of the difference between the fair market value of the property so seized and the recorded claim of the lienor.

(4) If the defendant is acquitted, all property seized in connection with the arrest of the defendant shall be ordered returned to the rightful owner unless previously returned under subsection (3) of this section.

(5) All expenses associated with the seizure, storing, and if applicable, sale of ***the*** [~~such~~] property shall be the responsibility of the defendant if he is convicted.

(6) It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the court before the act of forfeiture occurs.

Section 3. KRS 350.057 is amended to read as follows:

(1) The secretary of the Natural Resources and Environmental Protection Cabinet shall promulgate regulations for the permitting and performance of coal exploration operations which substantially disturb the natural land surface. Such regulations shall include at a minimum provisions for giving notice of intention to explore including a description of the area to be explored and the period of supposed exploration and provisions for reclamation, as required by this chapter, of all land disturbed in the exploration.

(2) Any requirements of public access to records set forth in the Kentucky Revised Statutes to the contrary notwithstanding, the secretary shall order that confidential trade secrets or privileged commercial or financial information in the possession of the cabinet or pursuant to a coal exploration permit remain confidential.

(3) No person or operator shall remove more than ***twenty-five (25)*** [~~two hundred fifty (250)~~] tons of coal pursuant to a coal exploration permit without the specific written approval of the cabinet.

(4) All persons or operators conducting operations pursuant to this section shall be subject to the applicable provisions of KRS 350.990.

**SB 154,** AN ACT relating to surface mining.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the cabinet, an operator shall prepare and carry out a method of operation, plan of grading and backfilling and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, rolling stones and overburden, water pollution and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and, except for applications or renewals submitted in compliance with KRS 350.060(2), the cabinet shall notify the applicant by certified mail, return receipt requested within sixty-five (65) cumulative working days after receipt of a complete application if it is or is not acceptable. [~~Provided, however, that~~] In the event that applicable notice, hearing and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures. If the ***permit application*** [~~plan~~] is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas or reject the entire application. Should the applicant disagree with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet in the manner provided by KRS 224.083. The cabinet shall notify the applicant by certified mail, return receipt requested within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in KRS 224.085.

(2) If the operator desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the operator shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.

(3) No operator shall throw, dump, pile or permit the dumping, piling or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place such materials herein described in such a way that normal erosion or slides brought about by natural physical causes will permit ***the*** [~~such~~] materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

**SB 156**, AN ACT relating to forest fire protection.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 149.093 is amended to read as follows:

If the violation of any section of this chapter is a misdemeanor and is committed in the presence of a forest warden or other law enforcement officer [~~of the cabinet~~], and there are reasonable grounds to believe that the person being cited will appear to answer the charge, ***the*** [~~such~~] warden or officer may, in lieu of a physical arrest directed by KRS 149.090, issue a citation as authorized by KRS 431.015, ***431.450, 431.451, 431.452 and 431.455*** [~~requiring the person being cited to appear before a court of competent jurisdiction of the county in which the offense occurred. The citation shall provide that the defendant shall appear within a designated time~~].

Section 2. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS ***149.370, 149.375, 149.385, 149.390, 149.395, 149.400, 149.401, 149.405,*** 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231 for first offense only, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, ***149.380,*** 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

**SB 194**, AN ACT relating to water wells and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 223.425 is amended to read as follows:

(1) Application for a certificate, or for renewal thereof, shall be made to the cabinet in writing under oath or affirmation, upon forms prescribed and furnished by the cabinet. ***The*** [~~Such~~] applications shall include:

(a) The name and address of the applicant;

(b) Prior experience, if any, in the field for which the applicant is applying;

(c) Any other information that the cabinet deems necessary in order to carry out the provisions of KRS 223.405 to 223.460;

(d) All past and current licenses held in this or any other state relating to the provisions of KRS 223.405 to 223.460.

(2) The cabinet may issue a water well driller certificate to any applicant who meets all of the provisions of KRS 223.405 to 223.460 and:

(a) Is at least eighteen (18) years of age; and

(b) Is a citizen of the United States or has declared an intention to become a citizen of the United States; and

(c) Has worked for two (2) years under the supervision of a certified water well driller ***or has other suitable experience or education as determined by the cabinet***; for those in business on the July 13, 1984, the two (2) year experience requirement shall be deemed satisfied if the driller has engaged in water well drilling, over the two (2) previous years; and

(d) Has a passing grade on the examination as determined by the cabinet.

(3) Those persons in business for two (2) years on July 13, 1984, shall be deemed exempt from the examination requirements of this chapter and shall apply for and obtain a certificate by July 1, 1985.

(4) Those persons who are water witchers, dowsers, diviners and any others who use divining rods for the purpose of locating underground water resources shall be exempt from KRS 223.405 to 223.460.

(5) The term of each certificate shall be one (1) year. Each certificate shall carry with it the right to successive renewal upon application and payment of fee, unless the board finds that the certified individual has failed to comply satisfactorily with KRS 223.405 to 223.460 or the regulations promulgated pursuant to KRS 223.420 or 223.435.

Section 2. Whereas, there is a shortage of qualified water well drillers, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

**SB 202,** AN ACT relating to mining.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period not to exceed five (5) years. ***However,***[~~; provided that~~] if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for ***the*** [~~such~~] specified longer term, the cabinet may grant a permit for ***the*** [~~such~~] longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(3) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary postoffice addresses of the applicant, which shall be updated immediately if changed at any point prior to final bond release;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of ***the*** [~~such~~] permits;

(g) The names and addresses of every officer, partner, director, or person performing a function similar to a director of the applicant, together with the names and addresses of any individual owning of record ten percent (10%) or more of any class of voting stock of the applicant, and whether the applicant or any ***the*** [~~such~~] person is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify. The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit ***the*** [~~such~~] updated information shall constitute a violation of this chapter only upon the permittee's refusal or failure to timely submit ***the*** [~~such~~] information to the cabinet upon request. Upon receipt of ***the*** [~~such~~] updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing ***the*** [~~such~~] information;

(h) A listing of any [~~and all~~] violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. ***The*** [~~Such a~~] list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is [~~not~~] in compliance with current reclamation standards, ***and*** if ***not*** [~~so then~~] identify the needed reclamation work.

(4) The application for a permit shall be accompanied by an official document*,* [~~(~~]and an affidavit attesting to the document's authenticity*,*[~~)~~] which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, [~~then~~] an affidavit so stating.

(5) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or [~~such~~] other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which ***the*** [~~such~~] drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(6) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or [~~such~~] other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection ***(8)*** [~~(10)~~] of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of ***the*** [~~such~~] area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. ***The*** [~~Such~~] plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(7) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability.[~~; provided, however, that~~] This determination shall not be required until ***the*** [~~such~~] time [~~as~~] hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. [~~Provided further, that~~] The permit shall not be approved until ***the*** [~~such~~] information is available and is incorporated into the application.

(8) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(9) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and administrative regulations adopted pursuant thereto.

(10) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations of the cabinet. ***The*** [~~Such~~] coverage shall be maintained in full force and effect during the terms of the permit and any ***permit*** renewal [~~thereof~~], and until reclamation operations are completed.

(11) A basic fee set by administrative regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375), plus a fee set by administrative regulation but not to exceed seventy-five dollars ($75), for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. In determining the amount of the bond, the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved, the cost of backfilling, grading and reclamation to be required, and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate administrative regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of [~~such~~] bonds.

(12) Surface coal mining and reclamation operations which affected two (2) acres or less, as defined by administrative regulations of the cabinet, which were conducted pursuant to two-acre-or-less permits issued by the cabinet, which were commenced on or before June 5, 1987, and on which mining ceased on or before November 7, 1987, shall be exempt from the requirements of this chapter, except as follows. Reclamation of such operations shall be accomplished in accordance with administrative regulations promulgated by the cabinet for operations of two (2) acres or less. [~~In no event shall~~] The cabinet ***shall not*** require that the highwalls left by ***the*** [~~such~~] operations be eliminated. Bond shall be maintained until reclamation is successfully completed. All procedural provisions and the penalty provisions of KRS 350.990 shall[~~, however,~~] apply to operations conducted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter, except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(13) The cabinet shall promulgate administrative regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require that all the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection ***(11)*** [~~(14)~~] of this section***, KRS 350.070,*** or [~~of~~] KRS 350.151.

(14) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. ***An applicant for renewal of a permit shall pay a basic fee set by regulation, not to exceed three hundred seventy-five dollars ($375).*** The holders of the permit may apply for renewal and ***the*** [~~such~~] renewal shall be issued, provided that on application for renewal the burden shall be on the opponents of renewal, subsequent to the fulfillment of the public notice requirements of this chapter, unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for ***the*** [~~said~~] operation will continue in full force and effect for any renewal requested in ***the*** [~~such~~] application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided.

Prior to the approval of any renewal of permit, the cabinet shall provide notice to the appropriate public authorities.

(15) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(16) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit.

(17) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by ***the*** [~~such~~] permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that ***the*** [~~such~~] extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(18) Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(19) All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 2. KRS 350.070 is amended to read as follows:

(1) ***Any*** [~~Revisions which request~~] extensions of the area covered by the permit, except incidental boundary revisions, shall be made by application for another permit ***or an amendment to the permit.***

***(2) For an amendment,*** the operator shall file an application, map and revised reclamation plan in the same form and with the same content as required for an original application under this chapter and shall pay a basic fee set by regulation and bearing a reasonable relationship to the cost of processing the permit application, [~~but~~] not to exceed ***three hundred seventy-five dollars ($375)*** [~~two hundred fifty dollars ($250)~~], plus a fee set by regulation, [~~but~~] not to exceed ***seventy-five*** [~~fifty~~] dollars ***($75),*** [~~($50)~~] for each acre or fraction of an acre for the increase requested, and shall file with the cabinet a supplemental bond in the amount to be determined under the provisions of KRS 350.060***(11)*** for each acre or fraction of an acre of the increase approved. ***This application shall be subject to all of the same requirements as an original application, including, but not limited to, the same public notice, review and issuance or denial provisions.***

***(3)*** If the cabinet approves a reduction in the acreage covered by the [~~original or supplemental~~] permit, it shall release the bond for each acre reduced, but in no case shall the bond be reduced below ten thousand dollars ($10,000)[~~, except as provided in subsection (12) of KRS 350.060~~]. If the cabinet approves a reduction in acreage [~~covered by the original or supplemental permit~~], it shall transfer the acreage fee for each acre reduced to acreage fees ***for*** [~~in~~] subsequent permit applications by the operator.

***(4)***[~~(2)~~] The cabinet shall promulgate regulations specifying the permit application information requirements and procedures, including notice and hearing, which shall apply depending on the scale or extent of a ***permit*** revision.[~~; provided, that~~] Any ***revision*** [~~permit revisions~~] which ***proposes*** [~~propose~~] significant alterations in the reclamation plan shall be subject to the notice and hearing requirements as set forth in the regulations of the cabinet. ***The applicant for a revision shall pay a basic fee set by regulation, not to exceed three hundred seventy-five dollars ($375), plus a fee set by regulation not to exceed seventy-five dollars ($75), for each acre or fraction of an acre included in an incidental boundary revision.***

Section 3. KRS 350.085 is amended to read as follows:

(1) No application for a permit and no operation shall be approved or allowed by the cabinet if there is found on the basis of the information set forth in the application that the requirements of this chapter or regulations will not be observed or that there is not probable cause to believe that the proposed method of operation, backfilling, grading or reclamation of the affected area can be carried out consistent with the purpose of this chapter.[~~;~~]

(2) If the cabinet finds that the overburden on any part of the area of land described in the application for a permit is such that experience in the Commonwealth with a similar type of operation upon land with similar overburden shows that substantial deposition of sediment in stream beds, landslides or acid water pollution cannot feasibly be prevented, the cabinet may delete ***the*** [~~such~~] part of the land described in the application upon which ***that*** [~~such~~] overburden exists.[~~;~~]

(3) Subject to valid existing rights, no surface coal mining operations except those which existed on or before August 4, 1977 shall be permitted within three hundred (300) feet from any occupied dwelling unless waived by the owner [~~thereof~~], nor within three hundred (300) feet of any public building, school, church, community, or institutional building, public park, or within one hundred (100) feet of a cemetery. [~~Nor shall~~] The cabinet ***shall not*** issue a permit if it finds that the operation will constitute a hazard to or do physical damage to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake or other public property. The cabinet shall delete ***the*** [~~such~~] areas from the permit application or operation.[~~;~~]

(4) Subject to valid existing rights, no surface coal mining operations except those which existed on or before August 4, 1977, shall be permitted within one hundred (100) feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join ***the*** [~~such~~] right-of-way line. [~~and except that~~] The cabinet shall permit ***the*** [~~such~~] roads to be relocated or the area affected to lie within one hundred (100) feet of ***the*** [~~such~~] road[~~,~~] if, after public notice and opportunity for public hearing in the locality, a written finding is made that the interest of the public and the ***affected*** land owner [~~affected thereby~~] will be protected, and shall not approve the application for a permit where the surface coal mining operation will adversely affect a wild river established pursuant to KRS Chapter 146, a state park or place listed on the national register of historic places unless adequate screening and other measures as approved by the cabinet are incorporated into the permit application.[~~;~~]

(5) Subject to valid existing rights, no surface coal mining operations except those which existed on August 4, 1977, shall be permitted on any privately owned lands within the boundaries of units of the national park system, the national wildlife refuge systems, the national system of trails, the national wilderness preservation system, the wild and scenic rivers system, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act and national recreation areas designated by act of Congress.

(6) If based on the information provided pursuant to KRS ***350.060(3)(h)*** [~~350.060(5)(h)~~] and other relevant information, the cabinet finds that any surface coal mining and reclamation operation owned or controlled by the applicant is currently in violation of this chapter or other requirements listed pursuant to KRS ***350.060(3)(h)*** [~~350.060(5)(h)~~], the cabinet shall not issue the permit or permit renewal until the applicant submits proof satisfactory to the cabinet that ***the*** [~~such~~] violation has been corrected or is in the process of being corrected. It shall be grounds to deny a permit or permit renewal if the cabinet, based on any information available to it and after a hearing, makes a finding that the applicant, or the operator specified in the application has demonstrated a pattern of willful violations pursuant to KRS 350.130(3).

Section 4. KRS 350.093 is amended to read as follows:

(1) As determined by administrative regulations of the cabinet, time and distance limits shall be established requiring backfilling, grading and planting to be kept current, ***so*** [~~such~~] that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; ***except*** [~~provided, however,~~] that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) (a) The cabinet may allow an operator to defer the time criteria of contemporaneous reclamation requirements on specified areas if the operator can demonstrate that ***the*** [~~said~~] deferment is necessary to address at least one (1) of the following:

1. Adverse condition including weather, labor and other conditions clearly beyond the operator's control;

2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080; ***or***

3. Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. The applicant has the burden ***of*** [~~in~~] establishing the need for ***the*** [~~such~~] deferment. The applicant ***shall*** [~~must~~] demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but [~~in no event shall~~] the aggregate deferral period ***shall not*** exceed thirty (30) months.[~~, nor shall~~] The deferral ***shall not*** extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the operator or other person desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for [~~such~~] purposes at which places it will not be necessary to backfill [~~as herein provided for~~] until ***the*** [~~such~~] drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of ***the*** [~~such~~] locations shall be described and designated on the map attached thereto. ***If***[~~; provided, that where~~] the operator or other person wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. ***These*** [~~Such~~] bond releases shall be made in accordance with the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, additional bond or collateral for the applicable permit shall be released. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; ***this*** [~~such~~] amount shall be retained for the period specified for operator responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection ***as*** [~~so~~] long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from [~~such~~] soil surveys ***that*** [~~as~~] may be required to be included in the permit application. ***If*** [~~Where~~] a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the cabinet.

(c) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, or collateral, but not before the expiration of the period specified for operator responsibility. [~~Provided, however, that~~] No bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) Upon satisfying the requirements of subsections (4)(a), (b), or (c) of this section the permittee may file, or the cabinet shall initiate, an application for total or partial bond release.

(a) A permittee shall have the right to begin public advertisement of its request for bond release at the time it files its request for ***the*** [~~such~~] release. The cabinet may undertake, at permittee expense, public advertisement of any cabinet initiated bond release. ***If*** [~~Should~~] the cabinet ***initiates*** [~~initiate~~] a bond release pursuant to this subsection but ***chooses*** [~~choose~~] not to advertise the release pursuant to this section, and the permittee does not advertise the request for the release within the time schedules established by this subsection, the bond release application shall be denied. All public advertisements of bond release applications, whether authorized by the permittee or the cabinet, ***shall*** [~~must~~] begin within sixty (60) days after either the filing of a bond release request by the permittee or the initiation of a bond release by the cabinet. Public advertisement shall occur at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

(b) The public advertisement required by this subsection shall include: the permit number and permit approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the operator's approved reclamation plan, and the name and address of the cabinet to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. Proof of [~~such~~] advertisement shall be placed with the bond release application within thirty (30) days after ***the*** [~~such~~] advertisement.

(c) Within thirty (30) days of filing of any bond release request, the permittee shall submit copies of letters which it has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. For bond releases initiated by the cabinet, the cabinet shall undertake the notification requirements set forth in this subsection.

(d) Upon the filing of an application for bond release by a permittee, or the initiation of ***the*** [~~such~~] release by the cabinet, the cabinet shall notify, within thirty (30) days of ***the*** [~~such~~] filing or initiation, the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) Upon the filing of any partial or total bond release request by a permittee, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. ***The*** [~~Such~~] evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of ***the*** [~~such~~] pollution, and the estimated cost of abating ***the*** [~~such~~] pollution.

(7) The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within five (5) days following receipt of proof of public advertisement as required in subsection (5)(b), or the end of the thirty (30) day public comment period, whichever is later, if no public hearing is held pursuant to subsection ***(10)***[~~(9)~~] of this section; and if there has been a public hearing held pursuant to subsection ***(10)***[~~(9)~~] of this section, within thirty (30) days thereafter.

(8) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve ***the*** [~~said~~] release and allowing opportunity for a public hearing. [~~In no event shall~~] The cabinet ***shall not*** disapprove an application for release of a surety bond or a bond secured by a letter of credit as provided for under subsection (4)(a) or (b) of this section or under the partial release provisions applicable to an interim permit, or take any action to forfeit ***the*** [~~such~~] surety bond, or bond secured by letter of credit, solely upon the permittee's failure to pay penalties or fines, if applicable reclamation requirements for the requested release have been fully met. The cabinet shall not continue to hold under the interim or permanent program remaining surety bond proceeds or the remaining bond secured by a letter of credit where a forfeiture has occurred solely as a result of a failure to pay penalties or fines, if the reclamation requirements of this chapter have been fully met.

(9) The bond liability of the permittee shall include only those actions which the permittee is obliged to take under the permit, including completion of the reclamation plan. Actions of third parties which are beyond the control and influence of the permittee and for which the permittee is not responsible under the permit shall not be covered by the bond.

(10) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

Section 5. KRS 350.113 is amended to read as follows:

(1) When the planting of a permit area is completed, the operator shall file a planting report with the cabinet on a form to be prescribed and furnished by the cabinet, giving the following information:

(a) Identification of the operation;

(b) The type of planting or seeding, including mixtures and amounts;

(c) The date of planting or seeding;

(d) The area of land planted;

(e) [~~Such~~] Other relevant information as the cabinet may require.

(2) All planting reports shall be certified by the operator.

(3) Inspection and evaluation for vegetative cover shall be made as soon as it is possible to determine if a satisfactory stand has been established. In no instance shall this vegetative cover check be made until just prior to or after the completion of the first growing season. [~~If the cabinet determines that a satisfactory vegetative cover has been established, it shall then release the remaining bond held on the area reclaimed.~~]

Section 6. KRS 350.130 is amended to read as follows:

(1) When any of the requirements of this chapter or administrative regulations adopted pursuant thereto or the orders of the cabinet have not been complied with, the cabinet shall forthwith cause a notice of noncompliance to be issued upon the person or operator. The cabinet shall set forth in its notice a reasonable time period but not more than ninety (90) days for the abatement of the violation. If any person or operator has not abated the violation within the time prescribed in the notice of noncompliance, the secretary or other authorized personnel of the cabinet shall issue to said operator or person an order for immediate compliance and cessation of any mining activities or operations which are contributing to the violation. Such order shall require the person or operator to abate the violation in the most expeditious manner possible. The secretary is authorized to promulgate reasonable administrative regulations for the implementation of this section. Such notice or order shall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested, addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then to the address known to the cabinet. The notice of noncompliance or order for immediate compliance and cessation shall specify in what respects the person or operator has failed to comply with this chapter or the regulations or orders of the cabinet and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. If the person or operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order for immediate compliance and cessation within time limits set therein, the permit may be revoked or the operation terminated, after an opportunity for a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet, except as provided in subsection (2) of this section [~~and in KRS 350.110~~], provided that failure to attend a hearing shall be excused for good cause shown. Any bonding company or financial institution providing bond to the cabinet shall have the right to perform those measures necessary to secure bond releases if said bonding company or financial institution can demonstrate that it has the ability to perform said measures and will undertake to do so within a reasonable time frame. Neither the surety company nor the financial institution may employ anyone to perform said measures who has been barred from mining pursuant to the provisions of this chapter.

(2) When a bond is forfeited consistent with the provisions of this chapter, the cabinet shall forfeit the entire amount of the bond for the permit area or increment.

(3) An operator or person whose mining permit or operation has been revoked, suspended, or terminated or is at the time of the application in violation of this chapter or other applicable requirements as set forth in KRS 350.085 shall not be eligible to receive another permit or begin another operation or to have suspended permits or operations reinstated until he shall have complied with all the requirements of this chapter or submitted proof satisfactory to the cabinet under KRS 350.085 that such violation has been corrected or is in the process of being corrected in respect to all permits issued him, provided, further, that no operator or person shall be eligible to receive another permit or begin another operation who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator

or person has paid such sum as the cabinet finds is adequate to reclaim such lands. The cabinet shall not issue any permits to or allow future operations by any operator or person who has demonstrated a pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, provided that no permit shall be denied on this basis without an opportunity for a hearing. The secretary shall promulgate regulations which implement this section. For the purposes of this section, if a corporate permittee has demonstrated a pattern of willful violations, then any subsequent application for a permit by that corporation, or any person who controls or has controlled that corporation, shall be denied.

(4) In the exercise of the secretary's enforcement powers and authority under this chapter, the secretary, or an authorized representative of the cabinet, after inspection shall immediately order the cessation of such condition or operation when he determines that the condition or operation creates an imminent danger to the health or safety of the public or that the condition or operation is causing or can reasonably be expected to cause significant imminent environmental harm in violation of this chapter or the regulations pursuant to this chapter, or any permit condition. For purposes of this subsection, "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(5) Each provision of this section shall be interpreted and applied consistently with due process of law.

(6) The secretary, or authorized representatives of the cabinet, shall have the power to vacate, amend, modify, or terminate notices of noncompliance and cessation orders, pursuant to administrative regulations promulgated by the cabinet.

Section 7. KRS 350.139 is amended to read as follows:

(1) All prior enactments of this General Assembly to the contrary notwithstanding, all funds received by the Natural Resources and Environmental Protection Cabinet through the payment of fees and civil penalties shall be deposited in the state treasury to the credit of the general fund [~~effective July 1, 1972~~]. All funds from the forfeiture of bonds shall be placed in the state treasury and credited to a special agency account. As far as is practicable, this fund shall be expended upon the lands for which the bond was given. [~~All unexpended funds in the natural resources and environmental protection cabinet trust and agency accounts established by KRS 350.140 shall lapse to the general fund at the close of the 1971-72 fiscal year, provided however, that an amount not exceeding $400,000 may be transferred to a revolving fund to be used for interim financing of federal grant-in-aid projects.~~]

(2) The state Treasurer shall on or before August 1 of each year transfer thirty-three and one-third percent (33 1/3%) of all funds paid during the preceding fiscal year as fees for the issuance of any permit for surface coal mining operations to the fiscal courts of the county in which the permitted operation is located for the general purposes of that fiscal court.

Section 8. KRS 350.151 is amended to read as follows:

(1) The Natural Resources and Environmental Protection Cabinet shall promulgate permanent program administrative regulations for the mining and reclamation of land disturbed or removed by operations resulting from or incident to ***underground coal mining*** [~~a mine as defined in KRS 352.010(1)(t)~~]. ***The*** [~~Such~~] regulations shall recognize the distinct differences between [~~the surface effects of~~] underground mining and ***strip*** [~~surface coal~~] mining ***of coal,*** [~~and~~] shall be promulgated pursuant to this chapter, and shall be enforced as provided in KRS 350.130 and 350.990. Those activities may include, but not be limited to, the construction of new roads or the improvement or use of existing roads to gain access to the site of ***the*** [~~such~~] activities and all lands affected by haulage, excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, but ***the*** [~~said~~] regulations shall not be more stringent than those applied to ***strip*** [~~surface coal~~] mining ***of coal.***

(2) The operator shall file with the cabinet a reclamation bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000) conditioned upon the faithful performance of the requirements set forth in this section and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. The cabinet shall accept, in lieu of the surety provided herein, the deposit by the operator of United States government securities, cash, or its equivalent in a sum equal to the principal amount of the required bond, or a self-bond pursuant to administrative regulations promulgated by the cabinet.

(3) In order to protect the stability of the land, the cabinet shall suspend underground mining activities under urbanized areas, and adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if the cabinet finds imminent danger to inhabitants of ***the*** [~~said~~] urbanized areas.

Section 9. KRS 350.710 is amended to read as follows:

The bond pool commission shall:

(1) Review, in accordance with the applicable administrative regulations of the cabinet, all applications for membership in the bond pool and assign a rating to each applicant for membership. The commission shall deny membership to any applicant who fails to satisfy the eligibility criteria set forth in KRS 350.720;

(2) Review all applications by bond pool members and recommendations by the bond pool administrator for revision of an assigned rating. ***The*** [~~Such~~] review shall include evaluation of the bond pool member's performance of reclamation requirements [~~as set forth~~] in this chapter and the administrative regulations promulgated pursuant thereto and consideration of the member's payment of fees and penalties assessed pursuant to KRS 350.725;

(3) Notify bond pool members of suspension or reinstatement of the tonnage fee required by KRS 350.725(2);

(4) Revoke or reinstate memberships in the bond pool and notify any member of the bond pool whose membership is revoked or reinstated;

(5) Employ, in accordance with KRS 45.700 ***et seq.***, a certified public accountant to perform an audit of the bond pool fund for each of the first two (2) years after July 15, 1986. After the initial two (2) years, an audit shall be made no less than biennially. Audit results shall be reported to the bond pool commission and to the governor;

(6) Employ, in accordance with KRS 45.700 ***et seq.***, a qualified actuary to perform an actuarial study no less than every three (3) years;

(7) Authorize expenditures from the bond pool necessary to carry out the purposes of KRS 350.700 to 350.755, including the procurement of legal services for the commission;

(8) Report to the governor no later than December 31 of each year as to the financial status of the bond pool; and

(9) Determine the amount of coverage provided for properties in the abandoned mine land enhancement program under KRS 350.595.

Section 10. KRS 350.720 is amended to read as follows:

(1) [~~There is hereby established~~] An alternative bonding program to be known as the "bond pool" ***shall be established***. Any permittee of a surface coal mining operation located in Kentucky who meets the criteria set forth in this section and in administrative regulations promulgated by the cabinet shall be eligible to participate in the bond pool. Participation in the pool shall be voluntary.

(2) Except as provided in KRS 350.700 to 350.755, membership in the bond pool and compliance with the requirements of KRS 350.700 to 350.755 shall satisfy the requirement to post bond in accordance with KRS ***350.060(11)*** [~~350.060(14)~~].

(3) An application fee shall be charged not to exceed one hundred dollars ($100). The application fee may be applied to the membership fee set forth in KRS 350.725(1).

(4) Except as provided in subsection (5) of this section, every permit held by a member of the bond pool shall be included in the pool, except for portions of permits disturbed prior to the member's admission into the pool, to which the provisions of KRS 350.735(4) shall apply.

(5) [~~No two (2) acre-or-less operation as defined in KRS 350.060(15) and~~] No acreage on which is located a coal preparation plant, tipple, or loading facility shall be eligible for bond coverage by the bond pool fund.

(6) The bond pool fund shall not assume any part of a member's responsibility for damage due to subsidence which occurs in connection with underground mining or auger mining.

(7) An applicant shall be eligible for membership in the bond pool only if the bond pool commission determines that the applicant is in good financial standing and fulfills the criteria of one (1) of the following ratings:

(a) An "A" rating shall be assigned to an applicant who:

1. For a period of at least five (5) of the seven (7) years immediately preceding the application for membership in the pool, has held, under the same permittee name or other permittee name as provided in paragraph (d) of this subsection, a permit issued by the cabinet to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an excellent compliance record as defined by the administrative regulations of the cabinet;

(b) A "B" rating shall be assigned to any applicant who:

1. For a period of at least five (5) of the seven (7) years immediately preceding the application for membership in the pool, has held, under the same permittee name or other permittee name as provided in paragraph (d) of this subsection, a permit to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an acceptable compliance record as defined by the administrative regulations of the cabinet;

(c) A "C" rating shall be assigned to any applicant who:

1. For a period of at least three (3) of the five (5) years immediately preceding the application for membership in the pool, has held, under the same permittee name or other permittee name as provided in paragraph (d) of this subsection, a permit to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an acceptable compliance record as defined by the administrative regulations of the cabinet.

(d) When approved by the commission on a case-by-case basis, permits held by persons other than the applicant may be used to demonstrate the years of mining experience of the applicant as set forth in this paragraph:

1. A person who owns fifty percent (50%) or more of the applicant;

2. A person who is owned fifty percent (50%) or more by a person under subparagraph 1. of this paragraph; or

3. Persons whose combined ownership of the applicant is fifty percent (50%) or more, provided that each person shall meet the years of mining experience required under this subsection.

(8) Upon request of any member, not to exceed once per year, the commission may upgrade the member's rating. The commission may downgrade the rating of any member at any time upon the recommendation of the bond pool administrator. Any [~~such~~] revision shall be made in accordance with the criteria set forth in this section. When a member's rating is downgraded, the commission may increase the permit-specific bond already posted in accordance with KRS 350.735.

(9) The cabinet shall promulgate administrative regulations establishing methods and criteria for determining if an applicant is in good financial standing. The cabinet shall also promulgate [~~such~~] regulations for determining if an applicant has an excellent or acceptable compliance record, which may include, but shall not be limited to:

(a) Number and seriousness of violations for which the applicant has been cited;

(b) Whether the applicant has abated cited violations in a timely fashion;

(c) Whether the applicant has timely paid any penalties assessed against it;

(d) Whether a surety which posted bond to cover a permit area of the applicant has had to perform reclamation to avoid bond forfeiture; and

(e) Whether the applicant has received timely bond releases.

(10) For purposes of determining whether an applicant has an excellent or acceptable compliance record, the commission shall examine the compliance records of all persons who own or control, are owned or controlled by, or are under common ownership or control with the applicant. Where persons other than the applicant are considered under subsection (7)(d) of this section, each [~~such~~] person's compliance record shall be considered.

(11) An applicant's experience pursuant to a two (2) acre-or-less permit as defined in KRS ***350.060(12)*** [~~350.060(15)~~] shall not be considered in the ratings assignment except as provided in subsection (12) of this section.

(12) No application for membership in the bond pool shall be approved by the commission if it is determined that the applicant, or any person who owns or controls, is owned or controlled by, or is under common ownership or control with the applicant, is not eligible for a permit under the provisions of KRS 350.085, 350.093, or 350.130.

(13) Memberships granted by the commission and ratings assigned by the commission shall not be transferrable from one (1) permittee to another.

(14) A person need not be a member of the bond pool in order to be provided coverage under the abandoned mine land enhancement program pursuant to KRS 350.595.

Section 11: KRS 350.735 is amended to read as follows:

(1) In addition to the membership fee and tonnage fee paid pursuant to KRS 350.725, bond pool members shall submit, for each permit to be covered by the bond pool, a permit-specific penal bond computed at the following rates for each acre or fraction thereof included in the proposed permit area:

(a) Five hundred dollars ($500) for "A" rated members;

(b) One thousand five hundred dollars ($1,500) for "B" rated members; and

(c) Two thousand dollars ($2,000) for "C" rated members.

(2) The permit-specific bond shall be increased by one thousand five hundred dollars ($1,500) for each acre of prime farmland to be covered by the bond pool.

(3) The permit-specific bond posted pursuant to this section shall be released in its entirety in accordance with cabinet procedures for bond release upon successful completion of that portion of reclamation set forth in KRS 350.093(4)(a) and administrative regulations promulgated pursuant thereto.

(4) If, at the time of application to the bond pool, a permittee holds one (1) or more permits which have already been disturbed, ***the*** [~~such~~] permits shall be transitioned into the bond pool in accordance with cabinet regulations. The area disturbed prior to admission to the bond pool shall not be covered by the pool, but shall be bonded in accordance with KRS ***350.060(11)*** [~~350.060(14)~~]. The undisturbed area shall be bonded in accordance with KRS 350.700 to 350.755. The cabinet may recognize exceptions when appropriate and necessary.

Section 12. KRS 350.740 is amended to read as follows:

(1) If an applicant for a permit chooses to post bond in accordance with KRS 350.700 to 350.755 as an alternative to KRS ***350.060(11)*** [~~350.060(14)~~], the permit shall not be issued until the applicant has been accepted as a member of the bond pool, has paid the applicable membership fee, and has submitted a permit-specific bond to cover the area which is the subject of the application.

(2) The cabinet shall not approve a permit transfer pursuant to KRS 350.135 until the transferee has either become a member of the bond pool based upon the transferee's own qualifications or submitted adequate bond in accordance with KRS ***350.060(11)*** [~~350.060(14)~~].

(3) Membership in the bond pool shall not relieve the member of the obligation to comply with requirements of this chapter and regulations promulgated pursuant thereto, except those provisions relating to the method of posting bond.

Section 13. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for ***the*** [~~said~~] violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which ***the*** [~~such~~] violation continues, and in addition, may be enjoined from continuing ***the*** [~~such~~] violations [~~as hereinafter~~] provided in this section; ***except*** [~~provided, however,~~] that any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for ***the*** [~~such~~] abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which ***the*** [~~such~~] violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The

secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of ***the*** [~~such~~] method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. ***The*** [~~Such~~] penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's office of general counsel, or upon the secretary's request, by the attorney general. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the state treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who engages in ***other*** mining operations, without proper authorization as required by ***this chapter*** [~~the cabinet pursuant to KRS 350.029~~] or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing ***the*** [~~such~~] violations [~~as hereinafter provided~~]. Each day shall constitute a separate violation. However, the penalties provided [~~for~~] in subsection (1) of this section shall apply in lieu of the penalties provided [~~for~~] in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) It shall be the duty of the cabinet's office of general counsel or, upon the secretary's request, of the attorney general to bring an action for the recovery of [~~the~~] penalties [~~herein provided for~~] and to bring an action for a restraining order, temporary or permanent injunction, against any operator or [~~other~~] person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any person who shall knowingly and willfully violate any of the provisions of this chapter, except as provided in subsection (5) of this section or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which ***the*** [~~such~~] violation occurs may constitute a separate offense.

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in ***other*** mining operations without proper authorization as required by ***this chapter*** [~~the cabinet pursuant to KRS 350.029~~] or administrative regulations promulgated pursuant thereto, with the intent to violate such laws, shall be guilty of a Class D felony and upon conviction [~~thereof~~] shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who shall willfully resist, prevent, impede, or interfere with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) ***When*** [~~Whenever~~] a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out ***the*** [~~such~~] violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) [~~Any person found in violation of KRS 350.060(11) shall be fined not more than five hundred dollars ($500) for each violation, nor less than fifty dollars ($50).~~

~~(11)~~] Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky department of insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

***(11)***[~~(12)~~] The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet division of abandoned lands shall have the authority to approve proposed in-kind projects and to recommend such projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet ***may*** [~~is authorized to~~] prepare and promulgate ***the*** [~~such~~] administrative regulations as are necessary to implement and administer the provisions of this subsection.

Section 14. KRS 350.110 Partial release of bond when planting deferred, is repealed.

**SB 205**, AN ACT relating to surface coal mining operations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.053 is amended to read as follows:

(1) Authorized representatives of the ***Office of*** Special Investigations [~~section~~] of the cabinet and all peace officers ***may*** [~~shall~~] seize and take possession of [~~any and~~] all instrumentalities willfully and knowingly used in the mining of coal without a permit in violation of ***subsection (1)(a) of Section 4 of this Act*** [~~KRS 350.060(1)~~] or willfully and knowingly used for the removal of more than ***twenty-five (25)*** [~~two hundred fifty (250)~~] tons of coal during coal exploration in violation of ***subsection (3) of Section 3 of this Act*** [~~KRS 350.057(3)~~].

(2) Upon conviction of any person for the willful and knowing violation of ***subsection (3)(a) of Section 3 or subsection (1)(a) of Section 4 of this Act*** [~~KRS 350.060(1) or 350.057(3)~~], the court shall order the machinery, trucks, and earth moving equipment, and materials used in furtherance of the crime forfeited and sold at public auction. Proceeds from ***the*** [~~such~~] sale shall be deposited in the "illegal mining ***and conveyance*** reclamation fund" established by ***subsection (1) of Section 2 of this Act*** [~~KRS 350.054~~].

***(3) Upon conviction of any person of a violation of subsection (3)(b) of Section 3 of this Act or subsection (1)(b) of Section 4 of this Act, the court shall order the instrumentalities used in furtherance of the crime forfeited and sold at public auction. Proceeds from the sale shall be deposited in the illegal mining and conveyance reclamation fund established by subsection (1) of Section 2 of this Act.***

***(4)***[~~(3)~~] All property seized under subsection (1) of this section shall be subject to the right of any owner or lienor whose lien is valid and recorded to intervene and upon trial or special hearing held for that purpose before the court establish his rights in the property by proving that the property was [~~being~~] used in ***violation of subsection (3) of Section 3 or subsection (1) of Section 4 of this Act*** [~~connection with mining without a permit~~] without the knowledge, consent or approval of the owner or lienor. If the owner of the property does so prove, the court may order the property restored to him. If the lienor so proves, the court may order a sale of the property at public auction with the lienor receiving from ***the*** [~~such~~] sale the amount of his outstanding lien. However, the cabinet shall deliver any seized property to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the cabinet of the difference between the fair market value of the property so seized and the recorded claim of the lienor.

***(5)***[~~(4)~~] If the ***person charged with a violation of subsection (3) of Section 3 or subsection (1) of Section 4 of this Act*** [~~defendant~~] is acquitted, all property seized ***pursuant to subsection (1) of this section*** [~~in connection with the arrest of the defendant~~] shall be ordered returned to the rightful owner unless previously returned under subsection ***(4)*** [~~(3)~~] of this section.

***(6)***[~~(5)~~] All expenses associated with the seizure, storing, and if applicable, sale of ***the*** [~~such~~] property shall be the responsibility ***upon conviction*** of the ***person charged with a violation of subsection (3) of Section 3 or subsection (1) of Section 4 of this Act*** [~~defendant if he is convicted~~].

***(7)***[~~(6) It shall be the duty of~~] All peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture ***shall*** [~~to~~] report the same to the court before the act of forfeiture occurs.

Section 2. KRS 350.054 is amended to read as follows:

(1) There is established a special fund to be known as the "illegal mining ***and conveyance*** reclamation fund" which shall be under the control of the Natural Resources and Environmental Protection Cabinet.

(2) The fund shall consist of all moneys from the sale or forfeiture of all instrumentalities used in ***violation of subsection (3) of Section 3 or subsection (1) of Section 4 of this Act*** [~~the mining of coal without authorization~~] as provided for in ***Section 1 of this Act*** [~~KRS 350.053~~].

(3) Moneys in the fund may be used for the following purposes:

(a) To reclaim lands mined without a permit or authorization, as required by ***Section 3*** [~~KRS 350.057~~] or ***subsection (1) of Section 4 of this Act*** [~~350.060(1)~~], and not eligible for the abandoned mine lands reclamation fund; ***and***

(b) To defray [~~any and~~] all expenses associated with the seizure, storing, and sale of forfeited property pursuant to ***Section 1 of this Act*** [~~KRS 350.053~~].

(4) Moneys contained in the illegal mining ***and conveyance*** reclamation fund shall be deemed a trust and agency account and shall not lapse.

(5) The cabinet shall have access to and control of the moneys held in the illegal mining ***and conveyance*** reclamation fund, but shall expend ***the*** [~~such~~] moneys only for the purposes set forth in subsection (3) of this section.

Section 3. KRS 350.057 is amended to read as follows:

(1) The secretary of the Natural Resources and Environmental Protection Cabinet shall promulgate regulations for the permitting and performance of coal exploration operations which substantially disturb the natural land surface. ***The*** [~~Such~~] regulations shall include at a minimum provisions for giving notice of intention to explore including a description of the area to be explored and the period of supposed exploration and provisions for reclamation, as required by this chapter, of all land disturbed in the exploration.

(2) Any requirements of public access to records set forth in the Kentucky Revised Statutes to the contrary notwithstanding, the secretary shall order that confidential trade secrets or privileged commercial or financial information in the possession of the cabinet or pursuant to a coal exploration permit remain confidential.

(3) ***(a)*** No person or operator shall remove more than ***twenty-five (25)*** [~~two hundred fifty (250)~~] tons of coal ***by coal exploration operations without first obtaining*** [~~pursuant to~~] a coal exploration permit ***from*** [~~without the specific written approval of~~] the cabinet.

***(b) No person or operator conducting coal exploration operations in which more than twenty-five (25) tons of coal are removed shall knowingly and willfully receive, transport, sell, convey, exchange, transfer, trade, donate, deliver, or otherwise convert to a commercial use any coal extracted during the course of the operations, except with the prior written approval of the cabinet for the purpose of testing or determining the properties of the coal.***

(4) All persons or operators conducting operations pursuant to this section shall be subject to the applicable provisions of KRS 350.990.

Section 4. KRS 350.060 is amended to read as follows:

(1) ***(a)*** No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall

authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period not to exceed five (5) years. ***However,*** [~~; provided that~~] if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for ***the*** [~~such~~] specified longer term, the cabinet may grant a permit for ***the*** [~~such~~] longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

***(b) Subject to the provisions of KRS 350.010(1) and (2), no person shall knowingly and willfully receive, transport, sell, convey, transfer, trade, exchange, donate, purchase, deliver or in any way derive benefit from coal removed from any surface mining operation which does not have a permit as required under this section.***

(2) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(3) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post office addresses of the applicant, which shall be updated immediately if changed at any point prior to final bond release;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of ***the*** [~~such~~] permits;

(g) The names and addresses of every officer, partner, director, or person performing a function similar to a director of the applicant, together with the names and addresses of any individual owning of record ten percent (10%) or more of any class of voting stock of the applicant, and whether the applicant or any such person is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify. The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit [~~such~~] updated information shall constitute a violation of this chapter only upon the permittee's refusal or failure to timely submit ***the*** [~~such~~] information to the cabinet upon request. Upon receipt of [~~such~~] updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing ***the*** [~~such~~] information;

(h) A listing of any [~~and all~~] violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. ***The*** [~~Such a~~] list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(4) The application for a permit shall be accompanied by an official document***,*** [~~(~~]and an affidavit attesting to the document's authenticity***,***[~~)~~] which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, [~~then~~] an affidavit so stating.

(5) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or [~~such~~] other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which ***the*** [~~such~~] drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(6) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or [~~such~~] other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of ***the*** [~~such~~] area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. ***The*** [~~Such~~] plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(7) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability.[~~; provided, however, that~~] This determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. [~~Provided further, that~~] The permit shall not be approved until ***the*** [~~such~~] information is available and is incorporated into the application.

(8) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(9) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and administrative regulations adopted pursuant thereto.

(10) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations of the cabinet. ***The*** [~~Such~~] coverage shall be maintained in full force and effect during the terms of the permit and any ***permit*** renewal [~~thereof~~], and until reclamation operations are completed.

(11) A basic fee set by administrative regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375), plus a fee set by administrative regulation but not to exceed seventy-five dollars ($75), for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. In determining the amount of the bond, the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved, the cost of backfilling, grading and reclamation to be required, and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate administrative regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of [~~such~~] bonds.

(12) Surface coal mining and reclamation operations which affected two (2) acres or less, as defined by administrative regulations of the cabinet, which were conducted pursuant to two-acre-or-less permits issued by the cabinet, which were commenced on or before June 5, 1987, and on which mining ceased on or before November 7, 1987, shall be exempt from the requirements of this chapter, except as follows. Reclamation of such operations shall be accomplished in accordance with administrative regulations promulgated by the cabinet for operations of two (2) acres or less. [~~In no event shall~~] The cabinet ***shall not*** require that the highwalls left by ***the*** [~~such~~] operations be eliminated. Bond shall be maintained until reclamation is successfully completed. All procedural provisions and the penalty provisions of KRS 350.990 shall[~~, however,~~] apply to operations conducted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter, except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(13) The cabinet shall promulgate administrative regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require that all the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151.

(14) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and ***the*** [~~such~~] renewal shall be issued, provided that on application for renewal the burden shall be on the opponents of renewal, subsequent to the fulfillment of the public notice requirements of this chapter, unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for ***the*** [~~said~~] operation will continue in full force and effect for any renewal requested in ***the*** [~~such~~] application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided.

Prior to the approval of any renewal of permit, the cabinet shall provide notice to the appropriate public authorities.

(15) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(16) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit.

(17) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by ***the*** [~~such~~] permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that ***the*** [~~such~~] extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(18) Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit

or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(19) All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 5. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for ***the*** [~~said~~] violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which ***the*** [~~such~~] violation continues, and in addition, may be enjoined from continuing ***the*** [~~such~~] violations as [~~hereinafter~~] provided in this section; provided, however, that any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for ***the*** [~~such~~] abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which ***the*** [~~such~~] violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of ***the*** [~~such~~] method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust..The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. ***The*** [~~Such~~] penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's ***Department of Law*** [~~office of general counsel, or upon the secretary's request, by the attorney general~~]. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet [~~or by the attorney general on its behalf~~] for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the state treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in ***Section 4 of this Act*** [~~KRS 350.060~~], or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to ***Section 3 of this Act*** [~~KRS 350.057~~] or administrative regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the cabinet pursuant to KRS 350.029 or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing ***the*** [~~such~~] violations [~~as hereinafter provided~~]. Each day shall constitute a separate violation. However, the penalties provided for in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) [~~It shall be the duty of~~] The cabinet's ***Department of Law shall*** [~~office of general counsel or, upon the secretary's request, of the attorney general to~~] bring an action for the recovery of the penalties [~~herein~~] provided [~~for~~] and [~~to~~] bring an action for a restraining order, temporary or permanent injunction, against any operator or other person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet [~~or by the attorney general on its behalf~~] for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any person who [~~shall~~] knowingly and willfully ***violates*** [~~violate~~] any of the provisions of this chapter, except as provided in subsection (5) of this section or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which ***the*** [~~such~~] violation occurs may constitute a separate offense.

(5) ***(a)*** Any person who, in violation of ***subsection (1)(a) of Section 4 of this Act*** [~~KRS 350.060,~~] willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to ***Section 3 of this Act*** [~~KRS 350.057~~] or administrative regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the cabinet pursuant to KRS 350.029 or administrative regulations promulgated pursuant thereto, with the intent to violate such laws, shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

***(b) Any person who in violation of subsection (1)(b) of Section 4 of this Act willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers or in any way derives benefit from coal removed from any surface mining operations conducted in violation of subsection (1)(a) of Section 4 or Section 3 of this Act shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).***

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who ***willfully and knowingly resists, prevents, impedes or interferes*** [~~shall willfully resist, prevent, impede, or interfere~~] with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) ***When*** [~~Whenever~~] a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of ***the*** [~~such~~] corporation who willfully and knowingly authorized, ordered, or carried out ***the*** [~~such~~] violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) [~~Any person found in violation of KRS 350.060(11) shall be fined not more than five hundred dollars ($500) for each violation, nor less than fifty dollars ($50).~~

~~(11)~~] Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

***(11)***[~~(12)~~] The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet division of abandoned lands shall have the authority to approve proposed in-kind projects and to recommend [~~such~~] projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet is authorized to prepare and promulgate [~~such~~] administrative regulations as are necessary to implement and administer the provisions of this subsection.

SB 218, AN ACT relating to the Kentucky Coal Authority.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

***As used in this Act, "authority" means the Kentucky Coal Authority.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

***(1) The Kentucky Coal Authority, a body corporate and politic, is created by this Act to further the cooperation of government and industry for the purpose of protecting and expanding markets for Kentucky coal. The authority shall be composed of seventeen (17) members, as follows:***

***(a) The secretary of the Executive Cabinet, who shall chair the authority;***

***(b) The Governor's Special Assistant for Coal and Energy Policy, who shall serve as vice-chair of the authority;***

***(c) The secretary of the Cabinet for Natural Resources and Environmental Protection;***

***(d) The secretary of the Transportation Cabinet;***

***(e) The secretary of the Cabinet for Economic Development; and***

***(f) Twelve (12) members appointed by the Governor including representatives of various interests concerned with the Kentucky coal industry, such as the owners or operators of companies involved in coal production, transportation, and consumption; citizens and persons representing environmental interests; representatives of the academic and financial communities; representatives of major labor organizations; and representatives of major coal associations. These seventeen (17) persons and their successors in office shall constitute the Kentucky Coal Authority, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, and to exercise, in addition to the powers and functions conferred by this Act, all of the usual powers of corporations not inconsistent with specifically enumerated powers.***

***(2) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.***

***(3) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The Governor's Office for Coal and Energy Policy shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's actions and proceedings, which shall be public records open to inspection.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

***On or before October 1, 1990, the Governor shall appoint twelve (12) members of the authority as follows: four (4) shall serve terms ending August 1, 1994; four (4) shall serve terms ending August 1, 1993; and three (3) shall serve terms ending August 1, 1992. As the terms of each group of members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

***The duties and functions of the authority shall be to:***

***(1) Ensure that all activities and programs of Kentucky state government which affect the production, transportation, marketing and consumption of coal are consistent with the goals of development of Kentucky's coal resources, increased economic growth, improved well-being of all citizens, and protection of the environment provided that nothing in this section shall be construed as modifying any provisions of KRS Chapters 224 and 350;***

***(2) Ensure that research programs relating to coal production, transportation, marketing, and consumption are integrated and directed at the highest levels of state government, and coordinate these research efforts with the energy laboratory assigned to the University of Kentucky and with other university programs relating to coal technology and research;***

***(3) Conduct research and analyses of potential markets for Kentucky coal, tax structures, regulatory requirements and proceedings, and other topics deemed appropriate by the authority;***

***(4) Promote the use of Kentucky coal by developing market information and promotional materials, coordinating coal trade missions, and exercising Kentucky's leadership in local, state, national and international policy formulation;***

***(5) Develop public information and education programs to improve the public perception and understanding of coal and the coal industry;***

***(6) Recommend to the Governor projects and programs to protect and expand markets for Kentucky coal; and***

***(7) Participate in the development of facilities or projects such as improvements in coal transportation systems, but excluding coal slurry pipelines, or innovative processing facilities, if the authority deems, after a full investigation, that the proposal is economically and technically feasible, and in the interest of the state.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

***The authority may:***

***(1) Acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this Act, and dispose of these interests in property;***

***(2) Make and enter into contracts and agreements as necessary or incidental to the functions of the authority;***

***(3) Receive and accept from any governmental agency, non-profit organization, or from private enterprise, appropriations, grants or contributions in money, property, labor, or other things of value, to be used to carry out the functions of the authority;***

***(4) Contract with consulting engineers, attorneys, marketing experts, accountants, and other agents for the specialized services necessary in the judgment of the authority.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

***(1) The authority may, if any coal development project undertaken pursuant to Section 4(7) of this Act is deemed economically feasible by the authority, with the approval of the State Property and Buildings Commission, issue revenue bonds as authorized by KRS 58.010 to 58.140 to meet monetary commitments under any contract executed by the authority for the construction or acquisition of that coal development project.***

***(2) If the authority issues revenue bonds, the bonds shall be secured solely by revenues derived by the authority from any project financed wholly or in part from the proceeds of the sale of the bonds, including lease rental payments and the proceeds realized from the sale of commercially usable product or output of the project.***

The Committee Amendment No. 1 to **SB 218** is as follows:

Amend printed copy of **SB 218** on page 3, line 10, after the word "***and***" by inserting: "***four (4)***" and by deleting "***three (3)***".

**SB 255,** AN ACT relating to coal mining regulation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 350.093 is amended to read as follows:

(1) As determined by administrative regulations of the cabinet, time and distance limits shall be established requiring backfilling, grading and planting to be kept current, such that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation.[~~; provided, however, that~~] The cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) (a) The cabinet may allow an operator to defer the time criteria of contemporaneous reclamation requirements on specified areas if the operator can demonstrate that said deferment is necessary to address at least one (1) of the following:

1. Adverse condition including weather, labor and other conditions clearly beyond the operator's control;

2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080;

3. Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. The applicant ***shall have*** [~~has~~] the burden in establishing the need for [~~such~~] deferment. The applicant ***shall*** [~~must~~] demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but [~~in no event shall~~] the aggregate deferral period ***shall not*** exceed thirty (30) months, ***and*** [~~nor shall~~] the deferral ***shall not*** extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the operator or other person desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes. At ***these*** [~~which~~] places it ***shall*** [~~will~~] not be necessary to backfill as herein provided for until ***the*** [~~such~~] drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of ***the*** [~~such~~] locations shall be described and designated on the map attached thereto. ***If***[~~; provided, that where~~] the operator or other person wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. ***The*** [~~Such~~] bond releases shall be made in accordance with the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, additional bond or collateral for the applicable permit shall be released. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; ***the*** [~~such~~] amount shall be retained for the period specified for operator responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from such soil surveys as may be required to be included in the permit application. ***If*** [~~Where~~] a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the cabinet.

(c) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, or collateral, but not before the expiration of the period specified for operator responsibility. [~~Provided, however, that~~] No bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) Upon satisfying the requirements of subsections (4)(a), (b), or (c) of this section, the permittee may file, or the cabinet shall initiate, an application for total or partial bond release.

(a) A permittee shall have the right to begin public advertisement of its request for bond release at the time it files its request for ***the*** [~~such~~] release. The cabinet may undertake, at permittee expense, public advertisement of any cabinet initiated bond release. ***If*** [~~Should~~] the cabinet ***initiates*** [~~initiate~~] a bond release pursuant to this subsection but ***chooses*** [~~choose~~] not to advertise the release pursuant to this section, and the permittee does not advertise the request for the release within the time schedules established by this subsection, the bond release application shall be denied. All public advertisements of bond release applications, whether authorized by the permittee or the cabinet, ***shall*** [~~must~~] begin within sixty (60) days after either the filing of a bond release request by the permittee or the initiation of a bond release by the cabinet. Public advertisement shall occur at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

(b) The public advertisement required by this subsection shall include: the permit number and permit approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the operator's approved reclamation plan, and the name and address of the cabinet to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. Proof of [~~such~~] advertisement shall be placed with the bond release application within thirty (30) days after ***the*** [~~such~~] advertisement.

(c) Within thirty (30) days of filing of any bond release request, the permittee shall submit copies of letters which it has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. For bond releases initiated by the cabinet, the cabinet shall undertake the notification requirements set forth in this subsection.

(d) Upon the filing of an application for bond release by a permittee, or the initiation of ***the*** [~~such~~] release by the cabinet, the cabinet shall notify, within thirty (30) days of ***the*** [~~such~~] filing or initiation, the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) Upon the filing of any partial or total bond release request by a permittee, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. ***The*** [~~Such~~] evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution.

(7) The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within five (5) days following receipt of proof of public advertisement as required in subsection (5)(b), or the end of the thirty (30) day public comment period, whichever is later, if no public hearing is held pursuant to subsection (9) of this section; and if there has been a public hearing held pursuant to subsection (9) of this section, within thirty (30) days thereafter.

(8) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve said release and allowing opportunity for a public hearing. [~~In no event shall~~] The cabinet ***shall not*** disapprove an application for release of a surety bond or a bond secured by a letter of credit as provided for under subsection (4)(a) or (b) of this section or under the partial release provisions applicable to an interim permit, or take any action to forfeit ***the*** [~~such~~] surety bond, or bond secured by letter of credit, solely upon the permittee's failure to pay penalties or fines, if applicable reclamation requirements for the requested release have been fully met. The cabinet shall not continue to hold under the interim or permanent program remaining surety bond proceeds or the remaining bond secured by a letter of credit where a forfeiture has occurred solely as a result of a failure to pay penalties or fines, if the reclamation requirements of this chapter have been fully met.

(9) The bond liability of the permittee shall include only those actions which the permittee is obliged to take under the permit, including completion of the reclamation plan. Actions of third parties ***and acts of God*** which are beyond the control and influence of the permittee and for which the permittee is not responsible under the permit shall not be covered by the bond. ***The cabinet shall promulgate regulations which will ensure that the permittee conforms to the provisions of this subsection.***

(10) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

***(11) The cabinet shall promulgate regulations specifically identifying and setting forth the circumstances and specific actions which would restart the five (5) year reclamation liability of the operator's reclamation bond.***

***(12) In order to comply with the federal standards on rills and gullies not interfering with the establishment of the vegetative cover and in order to allow a reasonable opportunity to repair rills and gullies and establish vegetation on them, the cabinet shall issue a notice of violation for r***

***(a) The cabinet has first issued an advisory inspection letter to the operator;***

***(b) The cabinet has determined whether the repairs and revegetation can practically occur during the current or next available planting season; and***

***(c) The operator has been allowed a reasonable opportunity to repair the rills and gullies during the current or next available planting season and has failed to do so in accordance with the advisory inspection letter.***

***The planting season shall fall between March 15 to May 15 and between September 15 to November 15.***

The Committee on Banking and Insurance reported **HB 580** with Committee Amendments attached thereto, **HB 677**, **HB 745**, **HB 765**, **HB 774**, **HB 818**, **SB 19**, **SB 182** and **HB 783** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 580**, AN ACT relating to property taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 136.290 is amended to read as follows:

(1) Every ***federally or state chartered*** [~~domestic~~] savings and loan association, ***savings bank and other similar institutions operating solely in Kentucky*** [~~bank for cooperatives, and every production credit association making loans to members only~~] shall, during January of each year, file with the Revenue Cabinet a report containing such information and in such form as the cabinet may require.

(2) The cabinet shall fix the total value, as of January 1 of each year, of the capital stock composed of shares of each ***financial institution included in subsection (1) of this section*** [~~savings and loan association and production credit association~~], excepting the share of borrowing members where the amount borrowed equals or exceeds the amount paid in by those members. The cabinet shall immediately notify each ***institution*** [~~association~~] of the value so fixed.

Section 2. KRS 136.300 is amended to read as follows:

(1) By July 1 succeeding the filing of the report provided for in KRS 136.290, each ***financial institution included in subsection (1) of KRS 136.290*** [~~domestic savings and loan association, bank for cooperatives, and each production credit association~~] shall pay directly into the state treasury a tax of one dollar for each one thousand dollars paid in on its capital stock as fixed in KRS 136.290. The individual shareholders shall not be required to list their shares for taxation for any purpose. ***Any financial institution included in subsection (1) of KRS 136.290*** [~~The association or bank for cooperatives~~] shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on ***intangible*** property of the ***institution*** [~~association or bank for cooperatives~~]. Failure to make reports and pay taxes as provided in this section and in KRS 136.290 shall subject the ***institution*** [~~association or bank for cooperatives~~] to the same penalties imposed for such failure on the part of the other corporations.

(2) If a ***financial institution included in subsection (1) of KRS 136.290*** [~~domestic savings and loan association, bank for cooperatives, or production credit association~~] so elects, it may deduct the taxes imposed in subsection (1) of this section from the dividends paid or credited to a nonborrowing shareholder.

Section 3. KRS 136.310 is amended to read as follows:

(1) Every ***federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the Revenue Cabinet a report containing information and in such form as the cabinet may require.***

***(2) The Revenue Cabinet shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the cabinet shall be a three-step process as follows:***

***(a) The total value of deposits maintained in Kentucky less any amounts where the amount borrowed equals or exceeds the amount paid in by those members.***

***(b) The Kentucky apportioned value of capital shall include undivided profits, surplus, general reserves and paid-up stock. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3).***

***(c) The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax exempt United States obligations to determine Kentucky taxable capital. The influence of tax exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital. The cabinet shall immediatel notify each institution of the value so fixed.***

***(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.***

***(4) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky. The denominator is the average balance of all outstanding loans. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2). However, if the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.***

***(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120(8)(b) and regulations promulgated thereunder.***

***(6) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section. The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution by required to list his deposits for taxation under KRS 132.020. Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.***

***(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (5) of this section from the dividends paid or credited to a nonborrowing shareholder*** [~~foreign savings and loan association authorized to transact business in this state shall, on January 1 of each year, file a report signed by its president or secretary, certified to by at least three (3) directors, showing the gross amount of assessments, dues, fines, membership fees and all money collected by it from shareholders residing in this state during the previous year. This report shall also show the amount of money loaned by the association to any of its shareholders residing in this state during the previous year.~~

~~(2) Every such association shall pay to the commissioner of financial institutions, to be by him paid into the state treasury, the sum of three dollars ($3.00) on every one hundred dollars ($100) received by the association from shareholders residing in this state, less the amount actually loaned to shareholders residing in this state~~].

The Committee Amendment No. 1 to **HB 580** is as follows:

Amend printed copy of **HB 580** on page 6, after line 19 by adding:

"Section 4. KRS 136.270 is amended to read as follows:

(1) For calendar year 1984 and each year thereafter an annual tax of ninety-five cents (95) is hereby imposed on each one hundred dollars ($100) of the taxable fair cash value of shares, ***except shares of bankers banks organized under KRS 287.135,*** as determined in accordance with subsection (4) of this section. The tax shall be paid to the sheriff of the county annually by the banks and trust companies, for and on behalf of the owners of the shares of stock. The tax shall be for state purposes only, and in lieu of all other taxes upon such shares by the state, or any county, city or other taxing district, except as provided in subsections (2) and (3) of this section.

(2) The county in which the bank or trust company is located may impose a tax on each one hundred dollars ($100) of the taxable fair cash value of shares of such bank or trust company, ***except shares of bankers banks organized under KRS 287.135,*** at a rate not to exceed a rate to be determined by multiplying nineteen cents (19) by a fraction, the numerator of which is the fair cash value of shares of all banks or trust companies within the county and the denominator of which is the taxable fair cash value of shares of all banks or trust companies within the county.

(3) The city in which the bank or trust company is located may impose a tax on each one hundred dollars ($100) of the taxable fair cash value of the shares of such bank or trust company, ***except shares of bankers banks organized under KRS 287.135,*** at a rate not to exceed a rate to be determined by multiplying nineteen cents (19) by a fraction, the numerator of which is the fair cash value of shares of all banks or trust companies within the city and the denominator of which is the taxable fair cash value of shares of all banks or trust companies within the city.

(4) For calendar year 1984 and each year thereafter, the fair cash value and taxable fair cash value of shares shall be determined in the following manner:

(a) The net worth (capital stock, surplus, undivided profits and reserves for contingencies and other capital reserves) of the bank or trust company as of December 31 of each year shall be determined.

(b) The net income (after federal income taxes and before dividends) of the bank or trust company for the past five (5) years, or so many years in which there was net income (not to exceed five (5)) as are available, preceding the assessment date, shall be averaged and capitalized at a rate determined by the revenue cabinet.

(c) On or before September 1 of each year, the revenue cabinet shall provide to the banking industry the capitalization rate developed from the previous year's annual reports of banks and trust companies submitted to the cabinet. The rate shall be determined as follows:

1. Determine the ratio of each bank's five (5) year average net income to the previous year's net worth;

2. Rank the resulting ratios; and

3. The medium ratio shall be the capitalization rate.

(d) The results of the computation in paragraphs (a) and (b) of this subsection shall be added and the sum divided by two (2) to determine fair cash value. From fair cash value shall be subtracted the influence of tax exempt United States obligations to determine taxable fair cash value of shares subject to the annual tax. The influence of tax exempt United States obligations is to be determined from the reports of condition and income filed with the applicable supervisory agency as follows: the average amount of tax exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by the fair cash value.

(5) In any extraordinary case where application of the formula provided by subsection (4) of this section will result in an inequitable or erroneous assessment, either with respect to the bank or the Commonwealth, the fair cash value and taxable fair cash value of shares shall be determined in accordance with other recognized criteria.

Section 5. KRS 136.280 is amended to read as follows:

(1) Every bank and trust company incorporated under the laws of this state, ***except bankers banks organized under KRS 287.135,*** and every national bank doing business in this state, shall, by February 1 of each year, make a report to the revenue cabinet and to the assessing officer of the county, city, or taxing district in which it is located. The report shall show the name and post office address of the bank or trust company; the names of the president, cashier, and board of directors; the number of shares of stock and the par and market value of each share; the amount of capital stock paid in; the amount of surplus and undivided profits; the amount of real property charged off that has not been actually sold and transferred; the amount of its deposits; the amount of cash on hand; the amount of securities held by it; the amount loaned on mortgages; the amount of its loans and discounts; the value of all tangible property situated in this state that is held and owned by the bank or trust company on January 1 of each year; and such other information as may be required.

(2) The assessing officer of the county, city or, taxing district in which any trust company or state or national bank is situated shall assess its shares for taxation for state, county, city, and taxing district purposes.

(3) Each bank and each trust company shall***, including bankers banks organized under KRS 287.135,*** list its tangible property with the assessing officer of each county and city in which such property is located, and pay taxes thereon to the collecting officer of such county, city or other taxing district, and that officer shall make out and return the assessment to the proper authorities of the county and city, at the same time and in the same manner as prescribed by law for the return of the assessment of personal property therein.

(4) The equalization, collection, penalties, and laws relating thereto provided for other personal property in the county, city, or taxing district shall apply to the collection of the taxes provided for in this section. Any county, city or taxing district may collect such taxes by suit.

(5) The provisions of this section do not apply to cities of the first class to the extent that such provisions are in conflict with the provisions of KRS 91.620 through 91.680.

Section 6. KRS 141.040 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3) and (4) of this section:

(a) S corporations;

(b) State and national banks and trust companies***, except bankers banks organized under KRS 287.135***;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers and reciprocal underwriters;

(g) Corporations exempt under section 501 of the Internal Revenue Code;

(h) Religious, educational, charitable or like corporations not organized or conducted for pecuniary profit; and

(i) Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, and whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced.

(2) For tax years ending before August 1, 1985, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000); and

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000).

(3) For tax years beginning after July 31, 1985, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before August 1, 1985, and ending after July 31, 1985, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through July 31, 1985, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from August 1, 1985, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000);

In no event shall the tax levied by this subsection apply if section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax."

The Committee Amendment No. 2 to **HB 580** is as follows:

Amend printed copy of **HB 580** on page 1, line 11, place beginning bracket "[" before the word "stock" and striking through the words "stock composed of";

On page 1, line 12, place an ending bracket "]" after the word "shares" and striking through the word "shares";

On page 1, line 13, after the word "***section***" insert the following:

"***. Capital shall include certificates of deposit, savings accounts, demand deposits, undivided profits, surplus and general reserves***".

**HB 677,** AN ACT relating to insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF SUBTITLE 12 KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***No insurer shall refuse to issue a policy of homeowners' or motor vehicle insurance to any Kentucky resident solely on the basis of the applicant's place of residence.***

**HB 745,** AN ACT relating to insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.33-010 is amended to read as follows:

(1) Short title. This subtitle may be cited as the "Insurers Rehabilitation and Liquidation Law."

(2) Construction. No limitation of powers. This subtitle shall not be interpreted to limit the powers granted the commissioner by other provisions of the law.

(3) Liberal construction. This subtitle shall be liberally construed to effect the purpose stated in subsection (4) of this section.

(4) Purpose. The purpose of this subtitle is the protection of the interests of insureds, creditors, and the public generally, with minimum interference with the normal prerogative of proprietors, through:

(a) Early detection of any potentially dangerous condition in an insurer, and prompt application of appropriate corrective measures, neither unduly harsh nor subject to the kind of publicity that would needlessly damage or destroy the insurer;

(b) Improved methods for rehabilitating insurers, by enlisting the advice and management expertise of the insurance industry;

(c) Enhanced efficiency and economy of liquidation, ***through the consolidation of matters relating to the liquidation under the supervision of a single court so as to avoid divergent rulings by a multiplicity of judicial tribunals and*** through clarification and specification of the law, to minimize legal uncertainty and litigation;

(d) Equitable apportionment of any unavoidable loss;

(e) Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process, and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state; [~~and~~]

(f) Regulation of the insurance business by the impact of the law relating to delinquency procedures and substantive rules on the entire insurance business***; and***

***(g) Provision for a comprehensive scheme for the supervision, rehabilitation and liquidation of insurance companies and those subject to this subtitle as part of the regulation of the business of insurance, insurance industry and insurers in this state. Proceedings in cases of insurer insolvency and delinquency shall be deemed an integral aspect of the business of insurance and are of vital public interest and concern.***

***(5) All persons who voluntarily transact business with an insurer which is subsequently the subject of a delinquency proceeding under this subtitle shall be conclusively presumed to have transacted business with the intent that the provisions of this subtitle would control if there is any delinquency proceeding in this state.***

***(6) If there is a delinquency proceeding under this subtitle, the provisions of this subtitle shall govern those proceedings, and all conflicting contractual provisions contained in any contract between the insurer which is subject to the delinquency proceeding and any third party, including, but not limited to, the choice of law or arbitration provisions, shall be deemed subordinated to the provisions of this subtitle.***

Section 2. KRS 304.33-020 is amended to read as follows:

The proceedings authorized by this subtitle may be applied to:

(1) ***All domestic insurers, whether or not they purport to do business in this state;***

***(2)*** All insurers who are doing, or have done, an insurance business in this state, and against whom claims arising from that business may exist now or in the future;

***(3)***[~~(2)~~] All insurers who purport to do an insurance business in this state;

***(4)***[~~(3)~~] All insurers who have insureds resident in this state;

***(5)***[~~(4)~~] All other persons organized or in the process of organizing with the intent to do an insurance business in this state;

***(6)***[~~(5)~~] All fraternal benefit societies as defined in Subtitle 29;

***(7)***[~~(6)~~] All nonprofit hospital, medical-surgical, dental, and health service corporations, as defined in Subtitle 32; [~~and~~]

***(8)***[~~(7)~~] All Health Maintenance Organizations as defined in Subtitle 38***; and***

***(9) Prepaid dental plan organizations as defined in KRS 304.43-010(6).***

Section 3. KRS 304.33-030 is amended to read as follows:

For the purposes of this subtitle:

(1) ***"Agent" means all persons who have collected or are holding premiums or other assets of the insurer, including, but not limited to, brokers, intermediaries, managing general agents, underwriting managers and reinsurance managers, and any other persons who have entered into a fiduciary relationship with the insurer subject to delinquency proceedings, including, but not limited to, persons holding licenses under Subtitles 9, 32, 38 and 43 of KRS Chapter 304.***

***(2)*** "Commissioner" means the commissioner of insurance of this state.

***(3)***[~~(2)~~] "Receiver" means receiver, liquidator, rehabilitator or conservator, as the context requires.

***(4)***[~~(3)~~] "Insurer" has the meaning defined in Subtitle 1 ***of this chapter***. For purposes of this subtitle, all other persons included under ***KRS 304.33-020*** [~~subsection (2) of this section~~] shall be deemed to be insurers.

***(5)***[~~(4)~~] "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer, and any summary proceeding under KRS 304.33-110 to 304.33-130, inclusive.

***(6)***[~~(5)~~] "State" has the meaning defined in Subtitle 1 ***of this chapter***.

***(7)***[~~(6)~~] "Foreign country" means territory not in any state.

***(8)***[~~(7)~~] "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an alien insurer, the state in which the insurer has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust and on deposit for the benefit of policyholders and creditors in the United States.

***(9)***[~~(8)~~] "Ancillary state" means any state other than a domiciliary state.

***(10)***[~~(9)~~] "Reciprocal state" means any state other than this state in which in substance and effect subsection (1) of KRS 304.33-200, subsections (1) and (3) of KRS 304.33-530, KRS 304.33-540, and KRS 304.33-560 to 304.33-590, inclusive, are in force, and in which provisions are in force requiring that the commissioner be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

***(11)***[~~(10)~~] "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or limited classes of persons, and as to specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sums secured thereby***, except as otherwise expressly provided in this subtitle***. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

***(12) "Reinsurance intermediary" means any person who acts as a broker in soliciting, negotiating, or procuring the making of any reinsurance contract or binder, or acts as an agent in accepting any reinsurance contract or binder on behalf of an insurer.***

***(13) "Court" means the Franklin Circuit Court.***

***(14)***[~~(11)~~] "Preferred claim" means any claim with respect to which the law accords priority of payment from the general assets of the insurer.

***(15)***[~~(12)~~] "Special deposit claim" means any claim secured by a deposit made pursuant to law for the security or benefit of one (1) or more limited classes of persons, but not including any claim secured by general assets.

***(16)***[~~(13)~~] "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claims or claims against general assets ***including, but not limited to, claims of setoff, counterclaim, or recoupment against obligations to pay premiums to the insurer***. The term also includes claims which have become liens upon specific assets by reason of judicial process, except where they have been invalidated.

***(17) "Premium" has the meaning set forth in Subtitle 14 of this chapter.***

***(18)***[~~(14)~~] "Insolvency" means that the insurer is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of:

(a) Any capital and surplus required by law to be constantly maintained, or

(b) Its authorized and issued capital stock. For purposes of this subsection, "assets" includes one-half (1/2) of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were one hundred percent (100%) collection of an assessment at the rate of ten (10) mills.

***(19)***[~~(15)~~] "Fair consideration" is given for property or an obligation:

(a) When in exchange for such property or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or services are rendered or obligation is incurred or an antecedent debt is satisfied; or

(b) When such property or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared to the value of the property or obligation obtained.

***(20)***[~~(16)~~] "Creditor" is a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent.

***(21)***[~~(17)~~] "Transfer" includes the sale and every other method, direct or indirect, of disposing of or of parting with property or with an interest therein or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

***(22)***[~~(18)~~] "Doing business" has the meaning designated in subtitle 1.

***(23) "Guaranty association" means the Kentucky Insurance Guaranty Association, the Kentucky Life and Health Insurance Guaranty Association and any other similar entity now or hereafter created by the legislature of this state for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence in or hereafter created by the legislature of any other state.***

Section 4. KRS 304.33-040 is amended to read as follows:

(1) Actions by commissioner. Except as provided in subsection (2) of this section, and subsection (1) of KRS 304.33-230, no delinquency proceeding shall be commenced under this subtitle by anyone other than the commissioner and no court shall have jurisdiction to entertain, hear or determine any proceeding commenced by any other person.

(2) Action by judgment creditors:

(a) The judgment creditors of three (3) or more unrelated judgments may commence proceedings under the conditions and in the manner prescribed in this subsection, by serving notice upon the commissioner and the insurer of intention to file a petition for liquidation under KRS 304.33-190 or 304.33-520. Each of the judgments must:

1. Have been rendered against the insurer by a court in this state having jurisdiction over the subject matter and the insurer;

2. Have been entered more than sixty (60) days before the service of notice;

3. Not have been paid in full;

4. Not be the subject of a valid contract between the insurer and any judgment creditor for payment of the judgment, unless the contract has been breached by the insurer; and

5. Not be a judgment on which an appeal or review is pending.

(b) If any one of the judgments in favor of a petitioning creditor remains unpaid for thirty (30) days after service of the notice, and the commissioner has not then filed a petition for liquidation, the creditor may file in the name of the commissioner a verified petition for liquidation of the insurer under KRS 304.33-190 or 304.33-520 alleging the conditions stated in this subsection. The commissioner shall be served and joined in the action.

(3) Exclusiveness of proceedings.

***(a) The court shall have exclusive jurisdiction to entertain, hear, or determine all matters in any way relating to any delinquency proceeding under this subtitle, including, but not limited to, all disputes involving purported assets of the insurer.***

***(b) Notwithstanding the provisions of paragraph (a) of this subsection, the court may authorize the receiver to seek injunctive or other appropriate relief from other courts, either within or without this state, if, in the opinion of the court, this action will be an aid to any delinquency proceeding.***

***(c) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this subtitle. No provisions in this subtitle shall be construed to preclude the court from, on its own motion, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules or to prevent an abuse of process*** [~~No court of this state shall have jurisdiction to entertain, hear or determine any complaint praying for the dissolution, liquidation, rehabilitation, sequestration, conservation or receivership of any insurer, or praying for an injunction or restraining order or other relief preliminary to, incidental to or relating to such proceedings other than in accordance with this subtitle~~].

(4) Change of venue. Venue for proceedings arising under this subtitle shall be laid initially as specified in the sections providing for such proceedings. All other actions and proceedings initiated by the receiver may be commenced and tried where the delinquency proceedings are then pending, or where venue would be laid by KRS Chapter 452 or other applicable law. All other actions and proceedings against the receiver shall be commenced and tried in the county where the delinquency proceedings are pending. At any time

upon motion of any party, venue may be changed by order of the court or the presiding judge thereof to any other Circuit Court in this state, as the convenience of the parties and witnesses and the ends of justice may require. This subsection relates only to venue and is not jurisdictional.

(5) Personal jurisdiction, grounds for. In addition to other grounds for jurisdiction provided by the law of this state, a court of this state having jurisdiction of the subject matter ***shall have*** [~~has~~] jurisdiction over a person served in an action brought by the receiver of a domestic insurer or an alien insurer domiciled in this state:

(a) If the person served is obligated to the insurer in any way as an incident to any agency or brokerage arrangement that may exist or has existed between the insurer and the agent or broker, in any action on or incident to the obligation;

(b) If the person served is a re-insurer who has at any time ***issued a contract of reinsurance to*** [~~written a policy of re-insurance for~~] an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced, or is an agent or broker of or for the re-insurer, in any action on or incident to the re-insurance contract; [~~or~~]

(c) If the person served is or has been an officer, manager, trustee, organizer, promoter or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced, in any action resulting from the relationship with the insurer***;***

***(d) If the person served is or was at the time of the institution of the delinquency proceedings holding assets in which the receiver claims an interest on behalf of the insurer;***

***(e) If the person served has filed a claim against the insurer under the provisions of KRS 304.33-360;***

***(f) If the person served is otherwise amenable to the exercise of personal jurisdiction by the courts of this state under the provisions of the due process clause of the fourteenth amendment to the United States Constitution; or***

***(g) If the person served is obligated to the insurer in any way in any action on or incident to the obligation.***

(6) ***Service of process.***

***(a) If personal jurisdiction is authorized by this section, service of process may be made on the person, or any agent of the person, in the county of this state where he may be found, or on the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of the person.***

***(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail a true copy to the Secretary of State and shall also mail with the summons an attested copy of the complaint. The Secretary of State shall, within seven (7) days of receipt thereof in his office, mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and, in addition, the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served upon the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.***

***(c) The clerk mailing the summons to the Secretary of State shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action.***

***(7)*** Forum non conveniens. If the court on motion of any party finds that any action commenced under subsection (5) of this section should as a matter of substantial justice be tried in a forum outside this state, the court may enter an order to stay further proceedings on the action in this state.

Section 5. KRS 304.33-050 is amended to read as follows:

(1) Injunctions [~~in this state~~]. Any receiver appointed in a proceeding under this subtitle may at any time apply for and any court of general jurisdiction [~~in this state~~] may grant such restraining orders, temporary and permanent injunctions, and other orders as are deemed necessary and proper to prevent:

(a) The transaction of further business ***by or on behalf of the insurer***;

(b) The transfer of property ***against which the receiver has a claim***;

(c) Interference with the receiver or with the proceedings;

(d) Waste of the insurer's assets;

(e) Dissipation and transfer of bank accounts;

(f) The institution or further prosecution of any actions or proceedings ***by or on behalf of the insurer;***

(g) ***The institution or further prosecution of any action against the receiver or the insurer including, but not limited to, interpleader or other actions involving assets against which the receiver has a claim;***

***(h)*** The obtaining of preferences, judgments, attachments, garnishments or liens against the insurer or its assets;

***(i)***[~~(h)~~] The levying of execution against the insurer or its assets;

***(j)***[~~(i)~~] The making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;

***(k)***[~~(j)~~] The withholding from the receiver of books, accounts, documents or other records relating to the business of the insurer; [~~or~~]

***(l)***[~~(k)~~] Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors or shareholders, or the administration of the proceeding***; or***

***(m) Any suit or other action against a reinsurer of the insurer.***

(2) Injunctions [~~elsewhere~~]. The receiver may apply to any court outside of this state for the relief described in subsection (1) of this section.

Section 6. KRS 304.33-060 is amended to read as follows:

In any proceeding under this subtitle ***in which the receiver is the prevailing party, the court shall award the receiver, in addition to such other relief as may be appropriate, all costs and expenses, including, but not limited to, attorneys' fees incurred in pursuing that litigation,*** [~~the court may award such costs and other expenses of litigation as justice requires,~~] without regard to the limitations otherwise prescribed by law.

Section 7. KRS 304.33-070 is amended to read as follows:

(1) Duty to cooperate. Any officer, manager, trustee or [~~general~~] agent of any insurer and any other person with executive authority over or in charge of any segment of the insurer's affairs ***or in possession of property to which the commissioner has a claim*** shall cooperate with the commissioner***, or anyone acting on behalf of the commissioner,*** in any delinquency proceeding. "To cooperate" includes, but is not limited to, the following:

(a) To reply promptly in writing to any inquiry from the commissioner requesting such a reply; and

(b) To make available and deliver to the commissioner any books, accounts, documents or other records, or information or property of or pertaining to the insurer and in his possession, custody or control.

(2) Duty not to obstruct. No person shall obstruct or interfere with the commissioner in the conduct of any delinquency proceeding.

(3) ***Any person who fails to cooperate with or obstructs the efforts of the commissioner in the conduct of any delinquency proceeding shall have denied any claims the person has filed pursuant to KRS 304.33-360 and shall also be subject to such other sanctions as the court may impose.***

***(4)*** Right to defend. This section shall not render it illegal to resist by legal proceedings the petition for liquidation or other delinquency proceedings, or other orders.

SECTION 8. A NEW SECTION OF KRS 304.33-070 TO 304.33-080 IS CREATED TO READ AS FOLLOWS:

***The commissioner, his special deputies, and all others appointed to act on his behalf in connection with any delinquency proceedings under this subtitle shall not be liable for any acts or omissions done in good faith and within the scope of their authority during the course of the delinquency proceedings, including, but not limited to, the settlement of disputed claims, and shall be immune from any civil or criminal liability that might otherwise be incurred or imposed based upon the acts or omissions.***

Section 9. KRS 304.33-140 is amended to read as follows:

***(1)*** The commissioner may apply by verified petition to the [~~circuit~~] court [~~for Franklin County or for~~

~~the county in which the principal office of the insurer is located~~] for an order directing him to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any one or more of the following grounds:

*(a)*[~~(1)~~] Any ground on which he may apply for an order of liquidation under KRS 304.33-190, whenever he believes that the insurer may be successfully rehabilitated without substantial increase in the risk of loss to creditors of the insurer or to the public.

*(b)*[~~(2)~~] That the commissioner has reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer or other illegal conduct in, by or with respect to the insurer, that if established would endanger assets in an amount threatening the solvency of the insurer.

*(c)*[~~(3)~~] That any one of the following circumstances has occurred and the commissioner has reasonable cause to believe that the insurer is insolvent or that assets are endangered in an amount threatening the solvency of the insurer:

*1.*[~~(a)~~] That information coming into the commissioner's possession has disclosed substantial and not adequately explained discrepancies between the insurer's records and the most recent annual report or other official company reports;

*2.*[~~(b)~~] That the insurer has failed to remove any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee or other person, if the person has been found by the commissioner after notice and hearing to be dishonest or untrustworthy in a way affecting the insurer's business;

*3.*[~~(c)~~] That control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in one or more persons found by the commissioner after notice and hearing to be dishonest or untrustworthy;

*4.*[~~(d)~~] That any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee or other person, has refused to be examined under oath by the commissioner concerning its affairs, whether in this state or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all his influence on management;

*5.*[~~(e)~~] That the insurer has refused to submit its books, accounts, documents or other records to the reasonable examination or inspection of the commissioner or his authorized representative.

*(d)*[~~(4)~~] That the insurer is or is about to become insolvent.

*(e)*[~~(5)~~] That the insurer is engaging in a systematic practice of reaching settlements with and obtaining releases from policyholders or third-party claimants and then unreasonably delaying payment of or failing to pay the agreed upon settlements.

*(f)*[~~(6)~~] That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public.

*(g)*[~~(7)~~] That within the previous twelve (12) months the insurer has systematically attempted to compromise with its creditors on the ground that it is financially unable to pay its claims in full.

*(h)*[~~(8)~~] That without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate or re-insure substantially its entire property or business in or with the property or business of any other person.

*(i)*[~~(9)~~] That the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer or its property otherwise than as authorized under this subtitle, and that such appointment has been made or is imminent, and that such appointment might oust the courts of this state of jurisdiction or prejudice orderly delinquency proceedings under this subtitle.

*(j)*[~~(10)~~] That within the previous year the insurer has wilfully violated its charter or articles of incorporation or any insurance law or regulation of this state, or having become aware within the previous year of an unintentional violation has failed to take all reasonable steps to remedy the situation resulting from the violation and to prevent future violations.

*(k)*[~~(11)~~] That the directors of the insurer are deadlocked in the management of the insurer's affairs and that the members or shareholders are unable to break the deadlock and that irreparable injury to the insurer, its creditors or its policyholders is threatened by reason thereof.

***(l)***[~~(12)~~] That the insurer has failed to file its annual report or other report within the time allowed by law, and after written demand by the commissioner has failed to give an adequate explanation immediately.

***(m)***[~~(13)~~] That two-thirds (2/3) of the board of directors, or the holders of a majority of the shares entitled to vote, or a majority of members or policyholders of an insurer subject to control by its members or policyholders, consent to rehabilitation under this subtitle.

***(2) Upon the issuance of an order directing the commissioner to rehabilitate a domestic insurer, the court shall have exclusive jurisdiction over all matters relating to the rehabilitation, including, but not limited to, the proper scope and application of the provisions of this subtitle to the rehabilitation as well as all interpretation and enforceability of all contracts of insurance to which the insurer is a party.***

Section 10. KRS 304.33-150 is amended to read as follows:

(1) Appointment of rehabilitator. An order to rehabilitate the business of a domestic insurer, or an alien insurer domiciled in this state, shall appoint the commissioner and his successors in office rehabilitator and shall direct the rehabilitator forthwith to take possession of the assets of the insurer and to administer them under the orders of the court. The filing or recording of the order with any county clerk in the state ***shall impart*** [~~imparts~~] the same notice as a deed, bill of sale or other evidence of title duly filed or recorded with that county clerk.

(2) ***Any order issued under this section shall require accountings to the court by the rehabilitator. Accountings shall be at such intervals as the court specifies in its order, but no less frequently than semi-annually. Each accounting shall include a report concerning the rehabilitator's opinion as to the likelihood that a plan under KRS 304.33-160(5) will be prepared by the rehabilitator and the timetable for doing so.***

***(3)*** Anticipatory breach. Entry of an order of rehabilitation shall not constitute an anticipatory breach of any contracts of the insurer ***and it shall not be grounds for revocation or cancellation of any contracts of the insurer.***

Section 11. KRS 304.33-160 is amended to read as follows:

(1) Special deputy commissioner. ***The commissioner as rehabilitator may appoint one (1) or more special deputies, who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the commissioner may employ such counsel, clerks, and assistants as deemed necessary. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the Department of Insurance. Any amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the Department of Insurance out of the first available money of the insurer*** [~~The commissioner shall make every reasonable effort to employ an active or retired senior executive from a successful insurer to serve as special deputy commissioner to rehabilitate the insurer. The special deputy shall have all of the powers of the rehabilitator granted under this section. To obtain a suitable special deputy, the commissioner may consult with and obtain the assistance and advice of executives of insurers doing business in this state. Subject to court approval, the commissioner shall make such arrangements for compensation as are necessary to obtain a special deputy of proven ability. The special deputy shall serve at the pleasure of the commissioner~~].

(2) General power. ***The rehabilitator may take such action as he deems necessary or appropriate to reform and revitalize the insurer. He shall have all the powers of the directors, officers,*** [~~Subject to court approval, the rehabilitator may take such action as he deems necessary or expedient to reform and revitalize the insurer. He shall have all the powers of the officers~~] and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. He shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(3) Advice from experts. The rehabilitator may consult with and obtain formal or informal advice and aid of insurance experts.

(4) Pursuit of insurer's claims against insiders. If the rehabilitator finds that there has been criminal or tortious conduct or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, employee or other person, he may pursue all appropriate legal remedies on behalf of the insurer.

(5) Reorganization plan. The rehabilitator may prepare a plan for the reorganization, consolidation, conversion, re-insurance, merger or other transformation of the insurer. Upon application of the rehabilitator for approval of the plan, and after such notice and hearing as the court prescribes, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. If it is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the equities of policyholders of the insurer, if all rights of shareholders are first extinguished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights upon policies, for such period and to such an extent as are necessary.

(6) Fraudulent transfers. The rehabilitator shall have the power to avoid fraudulent transfers under KRS 304.33-290 and 304.33-300.

Section 12. KRS 304.33-170 is amended to read as follows:

(1) Stays in pending litigation. On request of the rehabilitator, any court in this state before which any action or proceeding by or against an insurer is pending when a rehabilitation order against the insurer is entered shall stay the action or proceeding for such time as is necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The court that entered the rehabilitation order shall order the rehabilitator to take such action respecting the pending litigation as the court deems necessary in the interests of justice and for the protection of creditors and policyholders. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over that litigation for stays whenever necessary to protect the estate of the insurer.

(2) Statutes of limitations on claims by insurer. The time between the filing of a petition for rehabilitation against an insurer and denial of the petition or an order of rehabilitation shall not be considered to be a part of the time within which any action may be commenced by the insurer. Any action by the insurer that might have been commenced when the petition was filed may be commenced for at least sixty (60) days after the order of rehabilitation is entered.

(3) Statutes of limitations on claims against insurer. The time between the filing of a petition for rehabilitation against an insurer and the denial of the petition or an order of rehabilitation shall not be considered to be a part of the time within which any action may be commenced against the insurer. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty (60) days after the order of rehabilitation is entered or the petition is denied.

***(4) A guaranty association or a foreign guaranty association shall have standing to appear in any court proceeding concerning the rehabilitation of an insurer if such association is or may become liable to act as a result of the rehabilitation.***

Section 13. KRS 304.33-190 is amended to read as follows:

***(1)*** The commissioner may apply by petition to the Circuit Court for Franklin County or for the county in which the principal office of the insurer is located for an order directing him to liquidate a domestic insurer or an alien insurer domiciled in this state on any one (1) or more of the following grounds:

***(a)***[~~(1)~~] Any ground on which he may apply for an order of rehabilitation under KRS 304.33-140, whenever he believes that attempts to rehabilitate the insurer would substantially increase the risk of loss to its creditors, its policyholders or the public, or would be futile, or that rehabilitators would serve no useful purpose;

***(b)***[~~(2)~~] That the insurer has commenced, or within the previous year has attempted to commence, voluntary liquidation otherwise than under the insurance laws of this state;

***(c)***[~~(3)~~] That the holders of two-thirds (2/3) of the shares entitled to vote, or two-thirds (2/3) of the members or policyholders entitled to vote in an insurer controlled by its members or policyholders, have consented to a petition.

***(2) Upon the issuance of an order directing the commissioner to liquidate a domestic insurer, the court shall have exclusive jurisdiction over all matters relating to the liquidation, including, but not limited to, the proper scope and application of the provisions of this subtitle to the liquidation as well as all interpretation and enforceability of all contracts of insurance to which the insurer is a party.***

Section 14. KRS 304.33-200 is amended to read as follows:

(1) Order to liquidate. An order to liquidate the business of a domestic insurer shall appoint the commissioner and his successors in office liquidator and shall direct the liquidator forthwith to take possession of the assets of the insurer and to administer them under the orders of the court. The liquidator shall be vested by operation of law with the title to all of the property, contracts and rights of action and all of the books and records of the insurer ordered liquidated, wherever located, as of the date of the filing of the

petition for liquidation. He may recover and reduce the same to possession except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are prescribed in subsection (3) of KRS 304.33-540 for ancillary receivers appointed in this state as to assets located in this state. The filing or recording of the order with any county clerk in this state ***shall impart*** [~~imparts~~] the same notice as a deed, bill of sale or other evidence of title duly filed or recorded with that county clerk.

(2) Fixing of rights.

***(a)*** Upon issuance of the order, the rights and liabilities of any such insurer and of its creditors, policyholders, shareholders, members and all other persons interested in its estate are fixed as of the date of filing of the petition for liquidation, except as provided in KRS 304.33-210 and 304.33-380.

***(b) Entry of an order of liquidation shall not constitute an anticipatory breach of any contracts of the insurer, and it shall not be grounds for rescission, revocation, or cancellation of any contracts of the insurer in force as of the date of liquidation, except as provided in KRS 304.33-210.***

(3) Alien insurer. An order to liquidate the business of an alien insurer domiciled in this state shall be in the same terms and have the same legal effect as an order to liquidate a domestic insurer, except that the assets and the business in the United States shall be the only assets and business included under the order.

(4) Declaration of insolvency. At the time of petitioning for an order of liquidation, or at any time thereafter, the commissioner may petition the court to declare the insurer insolvent, and after such notice and hearing as it deems proper, the court may make the declaration.

Section 15. KRS 304.33-210 is amended to read as follows:

(1) ***All policies, other than life or health insurance or annuities, in effect at the time of issuance of an order of liquidation shall continue in force only for the lesser of:***

***(a) A period of thirty (30) days from the date of entry of the liquidation order;***

***(b) The expiration of the policy coverage;***

***(c) The date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy; or***

***(d) The date when the liquidator has effected a transfer of the policy obligation pursuant to KRS 304.33-240(9).***

***(2) An order or liquidation under KRS 304.33-200 shall terminate coverages at the time specified in subsection (1) of this section for purposes of any other statute.***

***(3) Policies of life or health insurance or annuity contracts shall continue in force for such period and under such terms as are provided for by the Kentucky Life and Health Insurance Guaranty Association or any similar foreign guaranty association.***

***(4) Policies of life or health insurance or annuity contracts or any period or coverage of such policies or contracts not covered by the Kentucky Life and Health Insurance Guaranty Association or any similar foreign guaranty association shall terminate under subsections (1) and (2) of this section*** [~~All insurance policies issued by the insurer shall continue in force:~~

~~(a) For a period of fifteen (15) days from the date of entry of the liquidation order;~~

~~(b) Until the normal expiration of the policy coverage;~~

~~(c) Until the insured has replaced the insurance coverage with equivalent insurance in another insurer; or~~

~~(d) Until the liquidator has effected a transfer of the policy obligation pursuant to subsection (8) of KRS 304.33-240, whichever time is less.~~

~~(2) If the coverage continued under this section is replaced by insurance that is not equivalent, the coverage continued under this section shall be excess coverage over the replacement policy to the extent of the deficiency. Claims arising during the continuation of coverage shall be treated as if they arose immediately before the petition for liquidation. Coverage under this subsection shall not satisfy any legal obligation of the insured to carry insurance protection, whether the obligation is created by law or by contract~~].

Section 16. KRS 304.33-240 is amended to read as follows:

The liquidator shall report to the court monthly, or at other intervals specified by the court, on the progress of the liquidation in whatever detail the court orders. ***The liquidator*** [~~Subject to the court's control, he~~] may:

(1) Appoint a special deputy to act for him under this subtitle, and***, subject to the court's approval,*** determine his compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Appoint or engage employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel he deems necessary to assist in the liquidation.

(3) Fix the compensation of persons under subsection (2) of this section, subject to the control of the court.

(4) Defray all expenses of taking possession of, conserving, conducting, liquidating, disposing of or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the liquidator may advance the costs so incurred out of any available appropriation. Any amounts so paid shall be deemed expense of administration and shall be repaid for the credit of the insurance department out of the first available moneys of the insurer.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to his testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, record or other documents which he deems relevant to the inquiry.

(6) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions[~~, in order~~] to ***marshal the assets of the insurer;*** forestall garnishment and attachment proceedings against such debts; do such other acts as are necessary or expedient to collect, conserve or protect its assets or property, including sell, compound, compromise or assign for purposes of collection, ***subject to court approval and*** upon such terms and conditions as he deems best, any ***disputed claims*** [~~bad or doubtful debts~~]; and pursue any creditor's remedies available to enforce his claims. ***In lieu of collecting funds representing unearned premium of a policyholder which are in the possession of the insurer's agent with respect to the kinds of direct insurance protected under KRS 304.36-030, the liquidator may authorize the use of such funds to replace the insurance coverage terminated pursuant to KRS 304.33-210, upon receipt from the agent of appropriate notice of such replacement of the insurance coverage with an insurer within sixty (60) days after the date of the liquidation order.***

(7) ***Audit the books and records of all agents of the insurer insofar as these records relate to the business activities of the insurer.***

***(8)*** Conduct public and private sales of the property of the insurer in a manner prescribed by the court.

***(9)***[~~(8)~~] Use assets of the estate to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under KRS 304.33-430.

***(10)***[~~(9)~~] Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, except that no transaction involving property the market value of which exceeds ten thousand dollars ($10,000) shall be concluded without express permission of the court. He also may execute, acknowledge and deliver any deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the county clerk for the county in which the property is located a certified copy of the order appointing him.

***(11)***[~~(10)~~] Borrow money***, subject to court approval,*** on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

***(12)***[~~(11)~~] Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party.

***(13)***[~~(12)~~] Continue to prosecute and institute in the name of the insurer or in his own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims he deems unprofitable to pursue further. If the insurer is dissolved under KRS 304.33-220, he may apply to any court in this state or elsewhere for leave to substitute himself for the insurer as plaintiff.

***(14)***[~~(13)~~] Prosecute any action which may exist in behalf of the creditors, members, policyholders or shareholders of the insurer against any officer of the insurer, or any other person.

***(15)***[~~(14)~~] Remove any records and property of the insurer to the offices of the commissioner or to such other place as is convenient for the purposes of efficient and orderly execution of the liquidation.

***(16)***[~~(15)~~] Deposit in one (1) or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions.

***(17)***[~~(16)~~] File any necessary documents for record in the office of any county clerk or record office in this state or elsewhere where property of the insurer is located.

***(18)***[~~(17)~~] Assert all defenses available to the insurer as against third persons, including statutes of limitations, statutes of frauds and the defense of usury. A waiver of any defense by the insurer after a petition for liquidation has been filed shall not bind the liquidator.

***(19)***[~~(18)~~] Exercise and enforce all the rights, remedies and powers of any creditor, shareholder, policyholder or member, including any power to avoid any transfer or lien that may be given by law and that is not included within KRS 304.33-290 to 304.33-310, inclusive.

***(20)***[~~(19)~~] Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

***(21)***[~~(20)~~] Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation or dissolution of an insurer doing business in both states.

***(22)***[~~(21)~~] Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with this subtitle.

***(23)***[~~(22)~~] The enumeration in this section of the powers and authority of the liquidator is not a limitation upon him, nor does it exclude his right to do such other acts not herein specifically enumerated or otherwise provided for as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

Section 17. KRS 304.33-250 is amended to read as follows:

(1) (a) Notice required; General requirements. The liquidator shall give notice of the liquidation order as soon as possible by first-class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is licensed to do business, by first-class mail and by telephone to the Labor Cabinet of this state if the insurer is or has been an insurer of workers' compensation, by first-class mail [~~within this state and by airmail outside this state~~] to all insurance agents having a duty under KRS 304.33-260, and by first-class mail [~~within this state and by airmail outside this state~~] at the last known address to all persons known or reasonably expected to have claims against the insurer, including all policyholders. He also shall publish a notice, under KRS Chapter 424, in a newspaper of general circulation in the county in which the liquidation is pending and in Franklin County, the last publication to be not less than three (3) months before the earliest deadline specified in the notice under subsection (2) of this section;

(b) Special requirements. Notice to agents shall inform them of their duties under KRS 304.33-260 and inform them what information they must communicate to insureds. Notice to policyholders shall include notice of impairment and termination of coverage under KRS 304.33-210. When it is applicable, notice to policyholders shall include:

1. Notice of withdrawal of the insurer from the defense of any case in which the insured is interested; and

2. Notice of the right to file a claim under subsection (2) of KRS 304.33-390;

(c) ***Notice under subsection (1)(a) of this section to agents of the insurer and to potential claimants who are policyholders or insureds shall include, where applicable, notice that guaranty association or foreign guaranty association coverage may be available for all or part of certain claims, and that policyholders or certificate holders may be entitled to continuation of coverage through the guaranty association. The notice shall also include as an insert a separate notice from any guaranty association or foreign guaranty association obligated to provide coverage, if the notice is made available to the liquidator on a timely basis;***

***(d)*** Reports and further notice. Within fifteen (15) days of the date of entry of the order, the liquidator shall report to the court what notice has been given. The court may order such additional notice as it deems appropriate.

(2) Notice respecting claims filing. ***Except as otherwise established by the liquidator with approval of***

***the court,*** notice to potential claimants under subsection (1) of this section shall require claimants to file with the ***liquidator*** [~~court~~] their claims together with proper proofs thereof under KRS 304.33-370, on or before a date the liquidator specifies in the notice, which shall be not less than six (6) months nor more than a reasonable time specified in the court's order, except that the liquidator need not require persons claiming unearned premium and persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. The liquidator may specify different dates for the filing of different kinds of claims.

(3) Notice conclusive. If notice is given in accordance with this section, ***all persons to whom this notice is directed shall be bound by the terms and provisions of the liquidation order and all further orders and notices similarly served on them, and*** the distribution of the assets of the insurer under this subtitle shall be conclusive with respect to all claimants, whether or not they received notice.

Section 18. KRS 304.33-260 is amended to read as follows:

(1) Written notice. Every person who receives notice in the form prescribed in KRS 304.33-250 that an insurer ***for which he has acted as*** [~~which he represents as an independent~~] agent is the subject of a liquidation order shall as soon as practicable give notice of the liquidation order. The notice shall be sent by first-class mail to the last address contained in the agent's records to each policyholder or other person named in any policy issued through the agent by the company, if he has a record of the address of the policyholder or other person. A policy shall be deemed issued through an agent if the agent has a property interest in the expiration of the policy; or if the agent has had in his possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another. The written notice shall include the name and address of the insurer, the name and address of the agent, identification of the policy impaired and the nature of the impairment under KRS 304.33-210. Notice by a general agent ***shall satisfy*** [~~satisfies~~] the notice requirement for any agents under contract to him.

(2) Oral notice. So far as practicable, every insurance agent subject to subsection (1) of this section shall give immediate oral notice, by telephone or otherwise, of the liquidation order to the same persons to whom he is obligated to give written notice. The oral notice shall include substantially the same information as the written notice.

***(3) The liquidator may waive the duties imposed by this section if he determines that other notice to the policyholders of the insurer under liquidation is adequate.***

***(4) Transfer of assets. Every agent subject to subsection (1) of this section shall, immediately upon receiving notice pursuant to KRS 304.33-250, and not later than thirty (30) days thereafter, except as otherwise expressly provided under KRS 304.33-240(6), transfer all assets of the insurer in possession of the agent as of the date of liquidation or any time thereafter to the liquidator. If there is any dispute as to whether assets which an agent is holding are assets of the insurer, the agent shall petition the court for an order determining the ownership thereof.***

Section 19. KRS 304.33-270 is amended to read as follows:

(1) Termination of actions against insurer by order appointing liquidator. Upon issuance of any order appointing the commissioner liquidator of a domestic insurer or of an alien insurer domiciled in this state, ***no actions may be instituted against the insurer or the liquidator without approval of the court and*** all actions and all proceedings against the insurer whether in this state or elsewhere shall be abated and the liquidator shall not intervene in them, except as provided in this subsection. Whenever in the liquidator's judgment an action in this state has proceeded to a point where fairness or convenience would be served by its continuation to judgment, he may apply to the court for leave to defend or to be substituted for the insurer, and if the court gives him leave, the action shall not be abated. Whenever in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, with approval of the court he may intervene in the action. The liquidator may defend any action in which he intervenes under this section at the expense of the estate of the insurer.

(2) Statute of limitations on claims by insurer. The liquidator may, within two (2) years subsequent to the entry of an order for liquidation or within such further time as applicable law permits, institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which such order is entered. Where, by any agreement, a period of limitation is fixed for instituting a suit or proceeding upon any claim or for filing any claim, proof of claim, proof of loss, demand, notice or the like, or where in any proceeding, judicial or otherwise, a period of limitation is fixed, either in the proceeding or by applicable law, for taking any action, filing any claim or pleading or doing any act, and where in any such case the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any such action or do any such act, required of or permitted to the insurer, within a period

of sixty (60) days subsequent to the entry of an order for liquidation, or within such further period as is permitted by the agreement, or in the proceeding or by applicable law, or within such further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

(3) Statutes of limitations on claims against insurer. The time between the filing of a petition for liquidation against an insurer and the denial of the petition shall not be considered to be a part of the time within which any action may be commenced against the insurer. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty (60) days after the petition is denied.

Section 20. KRS 304.33-290 is amended to read as follows:

(1) Definition and effect. Every transfer made or suffered and every obligation incurred by an insurer within one (1) year prior to the filing of a successful petition for rehabilitation or liquidation under this subtitle ***shall be*** [~~is~~] fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay or defraud either existing or future creditors. A transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under this subtitle, which is fraudulent under this section, may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor or obligee for a present fair equivalent value; and except that any purchaser, lienor or obligee, who in good faith has given a consideration less than fair for such transfer, lien or obligation, may retain the property, lien or obligation as security for repayment. The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event the receiver shall succeed to and may enforce the rights of the purchaser, lienor or obligee.

(2) Perfection of transfers. (a) Personal property. A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee under subsection (3) of KRS 304.33-310.

(b) Real property. A transfer of real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.

(c) Equitable liens. A transfer which creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.

(d) Transfer not perfected prior to petition. Any transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

(e) Actual creditors unnecessary. This subsection ***shall apply*** [~~applies~~] whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

(3) Fraudulent re-insurance transactions. Any transaction of the insurer with a re-insurer shall be deemed fraudulent and may be avoided by the receiver under subsection (1) of this section if:

(a) The transaction consists of the termination, adjustment or settlement of a re-insurance contract in which the re-insurer is released from any part of its duty to pay the originally specified share of losses that had occurred prior to the time of the transaction, unless the re-insurer gives a present fair equivalent value for the release; and

(b) Any part of the transaction took place within one (1) year prior to the date of filing of the petition through which the receivership was commenced.

***(4) Every person receiving any property from the insurer or any benefit thereof which is a fraudulent transfer under this section shall be personally liable therefor and shall be bound to account to the liquidator.***

Section 21. KRS 304.33-300 is amended to read as follows:

(1) Effect of petition: real property. After a petition for rehabilitation or liquidation, a transfer of any of the real property of the insurer made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred. The recording of a copy of the petition for or order of rehabilitation or liquidation with the county clerk in the county where any real property in question is located ***shall be*** [~~is~~] constructive notice of the commencement of a proceeding in rehabilitation or liquidation. The exercise by a court of the United States or any state of jurisdiction to authorize or effect a judicial sale of real property of the insurer within any county in any state shall not be impaired by the pendency of such a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

(2) Effect of petition: personal property. After a petition for rehabilitation or liquidation and before either the receiver takes possession of the property of the insurer or an order of rehabilitation or liquidation is granted:

(a) A transfer of any of the property of the insurer, other than real property, made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred.

(b) A person indebted to the insurer or holding property of the insurer may, if acting in good faith, pay the indebtedness or deliver the property or any part thereof to the insurer or upon his order, with the same effect as if the petition were not pending.

(c) A person having actual knowledge of the pending rehabilitation or liquidation shall be deemed not to act in good faith unless he has reasonable cause to believe that the petition is not well founded.

(d) A person asserting the validity of a transfer under this section shall have the burden of proof. Except as elsewhere provided in this section, no transfer by or in behalf of the insurer after the date of the petition for liquidation by any person other than the liquidator shall be valid against the liquidator.

(3) ***Every person receiving any property from the insurer or any benefit thereof which is a fraudulent transfer under this section shall be personally liable therefore and shall be bound to account to the liquidator.***

***(4)*** Negotiability. Nothing in this subtitle shall impair the negotiability of currency or negotiable instruments.

Section 22. KRS 304.33-330 is amended to read as follows:

(1) Setoffs allowed in general.

***(a)*** Mutual debt or mutual credits between the insurer and another person in connection with any action or proceeding under this subtitle shall be set off and the balance only shall be allowed or paid, except as provided in subsection (2) of this section.

***(b) As used herein, "mutual" means those debts or credits owed to or from identical parties acting in the same capacity.***

(2) Exceptions. No setoff or counterclaim shall be allowed in favor of any person where:

(a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle him to share as a claimant in the assets of the insurer;

(b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff;

(c) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or

(d) The obligation of the person is to pay premiums, whether earned or unearned, to the insurer.

SECTION 23. A NEW SECTION OF KRS 304.33-350 TO 304.33-360 IS CREATED TO READ AS FOLLOWS:

***(1) An agent, broker, premium finance company, or any other person, other than the insured, responsible for collection and payment of premium shall be obligated to pay any collected unpaid premium, whether earned or unearned, less any commissions on the earned portion of the premiums, due to the insurer at the time policies are terminated pursuant to KRS 304.33-210, except as expressly provided in KRS 304.33-240(6). Credits, setoffs, or both shall not be allowed to an agent, broker, or premium finance company for any amounts advanced to the insurer by the agent, broker, or premium finance company on behalf of, but in the absence of payment by, the insured.***

***(2) An insured shall be obligated to pay any unpaid earned premiums due to the insurer at the time his policy is terminated pursuant to KRS 304.33-210, subject further to any additional earned premium payable in the future which may be calculated by the liquidator representing unbilled audit premiums, experience rated premium adjustments, or any other similar deferred premium adjustments provided for under the terms of the insured's policy and which premiums have been apportioned and billed by the liquidator.***

Section 24. KRS 304.33-430 is amended to read as follows:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first fifty dollars ($50) of the amount allowed on each claim in the classes under subsections (2) to (5), inclusive, of this section, shall be deducted from the claim and included in the class under subsection (7) of this section. Claims may not be cumulated by assignment to avoid application of the fifty dollars ($50) deductible provision. Subject to the fifty dollars ($50) deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

(1) Administration costs. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

(2) Wages. (a) Debts due to employees for services performed, not to exceed one thousand dollars ($1,000) to each employee which have been earned within one (1) year before the filing of the petition for liquidation. Officers shall not be entitled to the benefit of this priority.

(b) Such priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(3) Loss and unearned premium claims. Claims by policyholders, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and claims of ***guaranty associations or foreign guaranty associations*** [~~the Kentucky Insurance Guaranty Association and any similar organization in another state~~].

(4) Residual classification. All other claims including claims of the federal or any state or local government, not falling within other classes under this section. Claims, including those of any governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection (7) of this section.

(5) Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment such weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

(6) Interest on claims already paid. Interest at the legal rate compounded annually on all claims in the classes under subsections (1) to (5) of this section, inclusive, from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

(7) Miscellaneous subordinated claims. The remaining claims or portions of claims not already paid, with interest as in subsection (6) of this section:

(a) The first fifty dollars ($50) of each claim in the classes under subsections (2) to (5), inclusive, of this section, subordinated under this section;

(b) Claims under subsection (2) of KRS 304.33-380;

(c) Claims subordinated by KRS 304.33-600;

(d) Claims filed late;

(e) Portions of claims subordinated under subsection (4) of this section; and

(f) Claims or portions of claims, payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

(8) Preferred ownership claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in subsections (6) and (7) of this section.

(9) Proprietary claims. The claims of shareholders or other owners.

Section 25. KRS 304.33-440 is amended to read as follows:

(1) Immediate Access. Within one hundred twenty (120) days of a final determination of insolvency of a company by a court of competent jurisdiction of this state, the liquidator shall make application to the court for approval of a proposal to disburse assets out of such company's marshalled assets, from time to time as such assets become available, to ***guaranty associations or foreign guaranty associations having obligations because of the insolvency*** [~~the Kentucky Insurance Guaranty Association and to any similar organizations in another state~~]. [~~(The Kentucky Insurance Guaranty Association and any similar organizations in other states shall hereinafter be referred to collectively as the Associations.)~~] Such proposal shall at least include provision for:

(a) Reserving amounts for the payment of the expenses of administration and claims falling within the priorities established in KRS 304.33-430(1) and (2);

(b) Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;

(c) Equitable allocation of disbursements to each of the associations entitled thereto; and

(d) The securing by the liquidator from each of the associations entitled to disbursements pursuant to paragraph (e) of an agreement to return to the liquidator such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in KRS 304.33-430(1), (2) and (3) in accordance with such priorities. No bond shall be required of any such association.

(e) The liquidator's proposal shall also provide for disbursements to the associations in amounts at least equal to the payments made or to be made thereby for which associations could assert claims against the liquidator, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such payments made or to be made by the Association then disbursements shall be in the amount of available assets.

(f) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states in which the company did business. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, at least thirty (30) days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with this subsection.

(2) Recommended claims. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as he deems necessary. He may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court. Unresolved disputes shall be determined under KRS 304.33-400. As often as practicable, he shall present to the court reports of claims against the insurer with his recommendations. The reports shall include the name and address of each claimant, the particulars of the claim and the amount of the claim finally recommended if any. As soon as reasonably possible after the last day for filing claims, he shall present a list of all claims not already reported. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment values and the amounts owed. If the insurer has issued policies on the advance premium plan, the liquidator shall report the persons to whom, according to the records of the insurer, unearned premiums are owed and the amounts owed.

(3) Allowance of claims. The court may approve, disapprove or modify any report on claims by the liquidator, except that the liquidator's agreements with other parties shall be final and binding on the court on claims settled for $500 or less. No claim under a policy of insurance shall be allowed for an amount in excess of the applicable policy limits.

SECTION 26. A NEW SECTION OF KRS 304.33-460 TO 304.33-470 IS CREATED TO READ AS FOLLOWS:

***An insurer that is subject to any delinquency proceedings, whether formal or informal or administrative or judicial, shall not:***

***(1) Be released from such proceeding, unless such proceeding is converted into a judicial rehabilitation or liquidation proceeding;***

***(2) Be permitted to solicit or accept new business or request or accept the restoration of any suspended or revoked license or certificate of authority;***

***(3) Be returned to the control of its shareholders or private management; or***

***(4) Have any of its assets returned to the control of its shareholders or private management;***

***until all payments of or on account of the insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the insurer shall have been approved by the guaranty association.***

SECTION 27. A NEW SECTION OF KRS 304.33-470 TO 304.33-480 IS CREATED TO READ AS FOLLOWS:

***Every proceeding heretofore commenced under the laws in effect before the enactment of this Act shall be deemed to have commenced under this subtitle for the purpose of conducting the proceeding henceforth, except that in the discretion of the commissioner the proceeding may be continued, in whole or in part, as it would have been continued had this subtitle not been enacted.***

**HB 765,** AN ACT relating to prepaid health care plans.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies, [(]as identified in Subtitle 29[)], except as stated in subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental and health service corporations, [(]as identified in Subtitle 32,[)] except as stated in Subtitle 32.

(3) Burial associations, [(]as identified in KRS Chapter 303[)], except as stated in Subtitle 31.

(4) Assessment or cooperative insurers, [(]as identified in KRS Chapter 299[)], except as stated in KRS Chapter 299.

(5) Insurance premium finance companies, [(]as identified in subtitle 30[)], except as stated in Subtitle 30.

(6) A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations, [(]as defined in KRS Chapter 271B[)], or the members of a bona fide association, composed of any number of members, who join together to self insure against professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group and who comply with the following conditions:

(a) Establishment of a professional or public liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or public liability risks;

(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group; and

(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.

***(7) Any prepaid health care plan which undertakes to provide health care services to individuals or groups enrolled with the plan on a per capita or a predetermined, fixed prepayment basis if the agreement is between the provider of the services and the user for the purchase of goods and services and the provider is not in the business of insurance.***

**HB 774,** AN ACT relating to health insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 18 IS CREATED TO READ AS FOLLOWS:

*(1) Any area development district or combination of area development districts may form a health care trust.*

*(2) Each health care trust shall:*

*(a) Encourage employers to participate in the purchase of group health insurance coverage for employees;*

*(b) Establish the amount of premiums to be paid into the trust;*

*(c) Negotiate and contract with insurers or health care providers for covered services, including but not limited to, basic inpatient hospital services and emergency medical services for participating employers, employees, their respective spouses, and dependent children. Coverage shall not supplement any other public or private health care benefits. Basic inpatient hospital services shall include at least fourteen (14) days room and board and charges for physicians services; and*

*(e) Operate as a nonprofit corporation as described in Section 501(c)(3) of the United States Internal Revenue Code, and shall have all powers necessary to effectuate their duties enumerated in this Act. The board of directors, or representatives thereof, of the area development district or combination of area development districts shall serve as the governing board of the health care trust.*

*(3) The health insurance contracts provided in response to this Act shall be exempt from requirements for additional benefits mandated in KRS Chapter 304.*

*(4) No area development district or health care trust, or any officer or employee thereof, shall be deemed to be an insurer or agent of an insurer and shall be exempt from all provisions of KRS Chapter 304.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

*(1) The amount of premiums paid for health insurance shall be treated as an income tax credit for state income tax purposes, as follows:*

*(a) Twenty percent (20%) of the first year premium;*

*(b) Fifteen percent (15%) of the second year premium;*

*(c) Ten percent (10%) of the third year premium; and*

*(d) Five percent (5%) of the fourth year premium.*

*(2) No employer or employee shall be eligible for the income tax credits enumerated in this section unless:*

*(a) Premiums are paid into the trust prior to July 1, 1992;*

*(b) Fifty (50) or fewer employees are employed;*

*(c) No health insurance benefits have been provided by the employer during the three (3) years preceding the date premiums are initially paid to the trust;*

*(d) Employers maintain participation in the trust for all full-time and part-time employees for a period of four (4) continuous years; and*

*(e) Employers pay at least fifty percent (50%) of the premium.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

*Area development district health care trusts shall collect one percent (1%) of premiums paid into the trusts to cover administrative costs incurred in discharging their duties as prescribed in this Act.*

HB 818, AN ACT relating to insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.5-070 is amended to read as follows:

(1) "Casualty insurance" includes:

(a) Vehicle insurance. Insurance against loss of or damage to any land vehicles or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental injury to individuals, irrespective of legal liability of the insured, including the ***named*** [~~name~~] insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal;

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance;

(c) Workers' compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employes;

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause;

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause;

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and the inspection of and issuance of certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured;

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus;

(i) Credit. Insurance, other than mortgage guaranty insurance, against loss or damage resulting from failure of debtors to pay their obligations to the insured;

(j) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service;

(k) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and the inspection of and issuance of certificates of inspection upon, elevators;

(l) Congenital defects. Insurance against congenital defects in human beings;

(m) Livestock. Insurance against loss of or damage to livestock from any cause;

(n) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals;

(o) Failure of certain institutions to record documents. Insurance indemnifying against loss from failure or omission to record as public records, liens of any kind upon personal property, given, held, delivered, or possessed as security or collateral for loans, advances, debts, or obligations of all kinds;

(p) Automobile guaranty. Insurance of the mechanical condition or, freedom from defective or worn parts of motor vehicles, other than as provided by manufacturer's warranty. Provided, however, the making of a contract covering only defects in material and workmanship in exchange for a separately stated charge where it is merely incidental to the business of selling or leasing motor vehicles, shall not be deemed insurance.

provided, that the maker of the contract has an insurance policy with an authorized motor vehicle insurer as defined in KRS 304.1-100 to assure the performance of the duties of the maker created by each on all of the contracts made by the maker. In the event that the maker of the contract is unable to perform the duties imposed thereby, the purchaser of the contract shall then be considered a policyholder of the insurer. The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within sixty (60) days after proof of loss has been filed with the maker. The requirements that the maker of the contract have an insurance policy with an authorized motor vehicle insurer as defined in KRS 304.1-100 shall not apply where the maker is a manufacturer, distributor, or importer of motor vehicles. The commissioner is authorized to promulgate regulations to interpret this paragraph; and

(q) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this subtitle, if such insurance is not disapproved by the commissioner as being contrary to law or public policy.

***The making of a contract covering only defects in material and workmanship in exchange for a separately stated charge, where it is merely incidental to the business of selling appliances or medical or dental supplies, shall not be deemed insurance if the maker of the contract has an insurance policy with an authorized insurer as defined in KRS 304.1-100 to assure the performance of the duties of the maker created by each on all of the contracts made by the maker. If the maker of the contract is unable to perform the duties imposed thereby, the purchaser of the contract shall then be considered a policyholder of the insurer. The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within sixty (60) days after proof of loss has been filed with the maker. The requirement that the maker of the contract have an insurance policy with an authorized insurer as defined in KRS 304.1-100 shall not apply where the maker is a manufacturer, distributor, or importer of appliances or medical or dental supplies. The commissioner shall be authorized to promulgate regulations to interpret this paragraph.***

(2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler machinery), (j) (malpractice), and (k) (elevator) of subsection (1) of this section shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life and health insurances.

**SB 19**, AN ACT relating to foreign corporations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 271B.15-010 is amended to read as follows:

(1) A foreign corporation***, except a foreign insurance company,*** shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any proceeding;

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employes or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; and

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section is not exhaustive.

**SB 182,** AN ACT relating to insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.20-320 is amended to read as follows:

(1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.

(2) Cancellations.

(a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation; and

(b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation ***is for nonpayment of premium or*** occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least seventy-five (75) days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days.

(3) Nonrenewals.

(a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period with a written explanation of the specific reason or reasons for the nonrenewal;

(b) If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal;

(c) If the insurer has manifested its willingness to renew by mailing or delivering of a renewal notice, bill, certificate, or policy to the first named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist; and

(d) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date shall constitute a presumption of receipt pursuant to paragraph (c) of this subsection.

(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, a notice for the renewal premium amount and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium amount. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

**HB 783,** AN ACT relating to motor vehicle insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.39-085 is amended to read as follows:

(1) Every authorized insurance company shall, within one (1) calendar week following the end of its accounting month, send to the Department of Vehicle Regulation a list of all persons insured by it whose policy was terminated by either cancellation or ***nonrenewal*** [~~non-renewal~~] during ***the*** [~~such~~] accounting month ***and a list of persons who became insured with the company during the month. The lists*** [~~Such list~~] shall include a description of each vehicle insured under ***a new or*** [~~such~~] terminating policy.

(2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) of this section by compatible computer tape approved by the Department of Vehicle Regulation.

***(3) For each vehicle required to be registered and which is listed on the insured's motor vehicle insurance policy, the insured, following application for renewal of motor vehicle insurance or upon each occasion of first time application for insurance, shall submit to his insurer or insurer's agent a copy of the certificate of registration most recently received from the county clerk.***

***(4) Each insurance company shall compare the information in its files with the certificate of registration and shall reconcile the files.***

***(5) All information sent to the Department of Vehicle Regulation by an insurance company as required by subsection (1) of this section shall be used by the department in the performance of its duties under KRS 186A.040, shall remain confidential and shall be excluded from application of KRS 61.870 to 61.884.***

Section 2. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the Department of Information Systems for inclusion in the AVIS data base.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or non-renewal of a policy pursuant to KRS 304.39-085, ***the department shall immediately cross-reference the insured, the insured vehicle, and registration to determine if the insured has insurance in effect. If the department finds that the name of a person whose insurance was cancelled or not renewed is not on a list of new insureds thirty (30) days after notification to the department of cancellation or nonrenewal,*** the department shall immediately notify the insured.

***(3)*** Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have ten (10) days to show proof of insurance to the county clerk ***or shall surrender to the county clerk all vehicle license plates***. The department shall further inform the insured that if evidence of insurance is not received ***or license plates surrendered*** within ten (10) days the department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304. ***The Department of Vehicle Regulation shall assist the county attorney in all prosecutions for violation of this section.***

***(4)***[~~(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured,~~] If the insured does not respond to notification set out by subsection ***(3)*** [~~(2)~~] of this section, ***the Department of Vehicle Regulation shall submit certified copies of its records to the appropriate county attorney that a motor vehicle is not properly insured and advise the cabinet that the insured's license should be suspended pursuant to KRS 186.570. The certified notice from the department shall constitute prima facie evidence of failure to have insurance and shall constitute a violation of the requirement for insurance regardless of the subsequent procurement of insurance.***

***(5)***[~~(4)~~] If the insured provides proof of insurance to the clerk after notification by the department, appropriate action shall be taken by the ***county clerk*** [~~department~~] to denote a valid insurance policy is in force ***by updating the vehicle owner's insurance record in the automated vehicle information system***.

Section 3. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person a license or may suspend the license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, whenever the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

***(i) That person has failed to maintain liability insurance as required by subtitle 39 of KRS Chapter 304.***

(2) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation or withdrawal of their driving privileges, under provisions of this section, a hearing. Upon determining that such action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. Such hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the cabinet.

(3) The cabinet may suspend the license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident. The Transportation Cabinet is forbidden from suspending or revoking a motor vehicle or motorcycle operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations and shall not apply to other motor vehicle offenses, nor shall this section apply to any new applicant for a Kentucky motor vehicle operator's license.

(4) Each license which has been cancelled, suspended or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension or revocation the license may be returned to the licensee.

Section 4. KRS 304.99-060 is amended to read as follows:

The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of this chapter shall:

(1) Be fined not less than ***two*** [~~five~~] hundred dollars ***($200)*** [~~($500)~~] nor more than one thousand dollars ($1,000);

(2) Have the license plates of such vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect; and

(3) For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560.

SECTION 5. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Any officer or employee of the Department of Vehicle Regulation who divulges any information submitted by an insurer in accordance with KRS 304.39-085 shall be guilty of a Class A misdemeanor, and shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service, unless the information was divulged upon order of a court of competent jurisdiction.***

The Committee Amendment No. 1 to HB 783 is as follows:

Amend printed copy of **HB 783** on page 1, delete lines 16 through 21 in their entirety.

On page 2, delete lines 1 through 4 in their entirety.

On page 2, line 5, delete "*(5)*" and insert in lieu thereof "*(3)*".

The Committee on Education reported **HB 612** with Committee Substitute attached thereto, **HB 664**, **HB 669** with Committee Substitute and Title Amendment attached thereto, **HB 701**, **HB 715**, **HB 898** with Committee Amendment attached thereto, **SB 86** with House Committee Substitute, **SB 207** and **SB 215** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 612**, AN ACT relating to higher education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

***(1) There shall be established a body corporate and politic constituting a public corporation and government instrumentality which shall be known as the Kentucky Regional System of Higher Education, hereafter referred to as the system, which shall consist of the following institutions, and other institutions, presently existing or newly created, hereafter admitted by the Board of Governors of the Kentucky Regional System of Higher Education in concurrence with other agencies as required by law:***

***(a) Eastern Kentucky University;***

***(b) Kentucky State University;***

***(c) Morehead State University;***

***(d) Murray State University;***

***(e) Northern Kentucky University;***

***(f) Western Kentucky University; and***

***(g) The community college system.***

***(2) The community college system shall consist of the following colleges:***

***(a) Ashland Community College;***

***(b) Elizabethtown Community College;***

***(c) Hazard Community College;***

***(d) Henderson Community College;***

***(e) Hopkinsville Community College;***

***(f) Jefferson Community College;***

***(g) Lexington Community College;***

***(h) Madisonville Community College;***

***(i) Maysville Community College;***

***(j) Owensboro Community College;***

***(k) Paducah Community College;***

***(l) Prestonsburg Community College;***

***(m) Somerset Community College; and***

***(n) Southeast Community College.***

***(3) State funds appropriated to the system shall be allocated to the individual institutions and community colleges on the basis of a formula recommendation developed by the Council on Higher Education.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The system shall be part of the Commonwealth's system of higher education. Its purpose shall be to provide high quality education at the lowest possible cost to the students. Each institution and the community college system shall provide appropriate educational facilities, student living facilities when applicable, and other facilities deemed necessary by the Board of Governors of the Kentucky Regional System of Higher Education:*

*(2) The system shall have all the powers necessary or convenient for the carrying out of its purposes, including, but not limited, to the following:*

*(a) To have perpetual existence as a corporation;*

*(b) To adopt, use and alter at will a corporate seal;*

*(c) To acquire, purchase, hold, lease as lessee and use any property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the system;*

*(d) To sell, lease as lessor, transfer and dispose of any property, or any interest therein at any time acquired by it;*

*(e) To take, demand, receive, and possess all moneys and goods which shall be appropriated, given or granted to for the use of the system and to apply them according to the will of the donors;*

*(f) To receive, possess, enjoy and retain forever by gift, purchase or devise any and all real and personal estates and funds in special trust with the profits thereof being applied to and for the use and purpose of endowing the system; and*

*(g) To receive donations from any sources whatever to be exclusively devoted to the purposes of the system or according to the terms of donation.*

*(3) The system shall have no power at any time or in any manner to pledge the credit or taxing power of the Commonwealth, nor shall the Commonwealth be liable for the payment of the principal or interest on such obligations.*

*(4) Nothing in subsection (2) of this section shall empower the board of governors or the chancellor to take or receive any moneys, goods or other property, real or personal, which is given to specific institutions.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The system shall be governed and all of its corporate powers exercised by the board of governors which shall consist of twenty-two (22) members to be appointed as follows:*

*(a) The chairman of the council of trustees for each of the universities and the community college system as specified in Section 1 of this Act;*

*(b) Two (2) student members to be selected annually in the following manner: not later than July 1 of each year the student body presidents of each of the universities and community colleges in the system shall submit one (1) nominee to the Governor who shall select from the list two (2) student members;*

*(c) Two (2) faculty members elected by secret ballot by the faculty members of the respective university or community college system. The two (2) faculty members shall be elected every two (2) years to serve a two (2) year term and no more than one (1) faculty member shall represent a constituent university or the community college system. Each faculty member shall be replaced at the end of his term by a faculty member representing the community college system or a different university. The faculty member shall represent the universities or the community college system in the following order: the community college system; Murray State University; Western Kentucky University; Kentucky State University; Northern Kentucky University; Eastern Kentucky University; and Morehead State University. Faculty members shall not be eligible to continue to serve if they cease to be members of the faculty of the university or community college system. Elections to serve vacancies shall be for the unexpired term in the same manner as provided in the original election. An unexpired term shall be filled by a faculty member representing the same university or the community college system as the original faculty member represented; and*

*(d) Eleven (11) lay members selected by the Governor, pursuant to the recommendations of the Governor's Higher Education Selection Committee who shall be citizens at large of the Commonwealth. No more than six (6) of the eleven (11) gubernatorial appointments shall be members of the same political party.*

*(2) The lay members appointed by the Governor, shall serve for terms of four (4) years with the initial*

*appointment of two (2) members for one (1) year, three (3) members for two (2) years, three (3) members for three (3) years and three (3) members for four (4) years. When a lay member's term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term.*

*(3) The Chairman of the council of trustees for each university and the community college system shall serve on the board of governors during his tenure as chairman on the council of trustees.*

*(4) The board of governors shall elect one (1) of its members to serve as chairman at the pleasure of the board. Members shall receive no compensation for their services but shall be reimbursed for the expenses necessarily incurred by them in the performance of their duties. The board shall meet quarterly and additionally at the call of the chairman.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The chief executive officer of the system shall be a chancellor, who shall be employed by the board of governors in accordance with Section 5 of this Act. In addition to those prescribed by the board, the chancellor shall have the following duties:*

*(a) Administer the system under policies prescribed by the board of governors;*

*(b) Advise the board of governors on the formulation of policies, see that the board's policies are carried out, and supervise the board's studies;*

*(c) Assist the board of governors in its appointment of the presidents for the constituent institutions, the community college system and the individual community colleges by submitting to the board the name or names of individuals recommended by the council of trustees of the appropriate constituent institution and the community college system who shall involve students, faculty, and alumni in the interview and selection process used to formulate their recommendation. The chancellor shall submit to the board the recommended salary and other proposed terms of each appointment. The board shall have the right to refuse the recommendation of the local council and to request that additional recommendations be submitted by the council;*

*(d) Prepare an evaluation procedure for adoption by the board of governors and forward the results of the evaluation conducted by the local council of trustees with his comments to the board;*

*(e) Employ central office professional and staff employees appropriate for the efficient discharge of the chancellor's duties;*

*(f) Administer the central office, and institute system-wide business procedures and overall organization of maintenance of the physical plants and security at all institutions;*

*(g) Conduct comprehensive planning in consultation with representatives of the trustees, presidents, faculties, students, and alumni, and, within the policies established by the board of governors, establish priorities and procedures for the operation and development among the institutions and the community college system, with respect to the role and scope of each institution and the community college system, instructional programs, research programs, and public service programs;*

*(h) Require of the presidents any and all information necessary for the performance of his duties;*

*(i) Serve as an ex officio member of the council of trustees of the community college system and each institution of higher education in the system; and*

*(j) Perform other duties the board of governors may designate.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The board of governors shall have overall responsibility for planning and coordinating the development and operation of the system. The powers and duties of the board of governors shall be:*

*(a) To employ the chancellor to serve at the board of governors' pleasure under a fixed term or a contract of fixed duration of not longer than five (5) years, to fix his salary and to prescribe and delineate his duties and responsibilities. Prior to the renewal of the chancellor's term or contract, the board shall conduct an evaluation of the chancellor's service to determine whether the term or contract should be renewed and for what period of time.*

*(b) To appoint from the list submitted by the chancellor, pursuant to Section 4(c) of this Act, presidents of the constituent institutions, the community college system and the individual community colleges to serve at the board of governors' pleasure under fixed terms or contracts of fixed duration, to fix the salaries*

*and other terms of appointment of each president, and, prior to renewal of the term or contract, consider the results of the evaluation of each president's service submitted by the chancellor;*

*(c) To establish policies and procedures to be applied by the chancellor, the board of governors, and each local council of trustees in evaluating the president and recommending the selection, retention and dismissal of the president of the respective institution, the community college system and each individual community college;*

*(d) To establish broad fiscal, personnel, and educational policies under which the institutions of the system and the community college system shall operate;*

*(e) To approve extension campuses;*

*(f) To promote cooperation among institutions, including the development of consortia within the system and other educational institutions and agencies;*

*(g) To assure procedural protection for the discipline and expulsion of students although the actual admission of students shall remain the province of the individual institutions;*

*(h) To coordinate, review, amend, and approve the capital budget requirements of the system, the operating budgets of the individual institutions and community colleges and the operating budget of the chancellor and the board of governors. The board shall present these annual budgets with comments to the Council on Higher Education;*

*(i) To establish general personnel policies under which the institutions shall operate consistent with merit principles, and to determine equivalent degree and teaching experience qualifications for appointment or promotion of faculty employees;*

*(j) To represent the system before the General Assembly and the Governor;*

*(k) To adopt general policies with regard to student activity fees and to provide for student participation in the formulation of these policies;*

*(l) To establish policies regarding waiver, deferment, and refund of tuition fees and other charges and fees;*

*(m) To make all reasonable rules and regulations necessary to carry out the purposes of this Act and the duties of the board; and*

*(n) To do and perform generally all of those things necessary and required to accomplish the role and objectives of the system.*

*(2) The board of governors shall provide for the holding of regular and special meetings. Twelve (12) governors attending shall constitute a quorum for the transaction of any business and, unless a greater number is required by the bylaws of the board, the act of a majority of the governors present at any meeting shall be deemed the act of the board.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The Commission of Presidents of the system shall consist of the presidents of the regional universities and the community college system who shall annually select one (1) of their members as chairman. The commission shall recommend policies for the institutions and shall act in an advisory capacity to the chancellor and the board of governors. The commission shall meet quarterly and additionally at the call of its chairman or the chancellor. A majority of the presidents shall constitute a quorum.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The council of trustees of the community college system and each of the institutions making up the system shall consist of eleven (11) members who, except for student and faculty members, shall be nominated and appointed by the Governor pursuant to the recommendations of the Governor's Higher Education Selection Committee. At least two (2) members of the eleven (11) member council of trustees shall be alumni of the institution.*

*(2) The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. When a term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be for a six (6) year term. The council of trustees for the respective institution shall consist of the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain permanent residency in the*

*Commonwealth as a student member, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The council of trustees for the community college system shall consist of one (1) member who shall be a full-time undergraduate student who is a permanent resident of the Commonwealth. The student member shall be elected by a vote of the student body presidents of all the community colleges in the system. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.*

*(3) The faculty member shall be elected by secret ballot by the faculty members of the respective universities or the community colleges. Faculty members shall serve for terms of two (2) years and until their successors are elected and qualified. The faculty member shall cease to become a member of the council of trustees if the member ceases to be a member of the faculty of the respective university or community college system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.*

*(4) The members of each board of regents of a former state institution of higher education serving in such capacity on the effective date of this Act shall continue to serve for the balance of their respective terms.*

*(5) Six (6) members of a council of trustees shall constitute a quorum. Each council shall select from its members a chairman and a secretary to serve at the pleasure of the council. Each council shall meet at least quarterly, and additionally at the call of the president, or its chairman, or upon request of three (3) of its members.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*In accordance with the rules and regulations adopted by the board, the council of trustees of each institution and the community college system shall:*

*(1) Make recommendations to the chancellor for the appointment, retention, or dismissal of the president following consultation with students, faculty, and alumni;*

*(2) Assist the president in developing proper relations and understanding between the institution and its programs and the public, in order to serve the interests and needs of both;*

*(3) Review and approve the recommendations of the president as to standards for the admission, discipline and expulsion of students;*

*(4) Review and approve the recommendations of the president pertaining to policies and procedures governing the use of institutional facilities and property;*

*(5) Approve schools and academic programs;*

*(6) Review and approve the recommendations of the president pertaining to operating and capital budget requirements for forwarding to the board of governors;*

*(7) Review and approve charges for room and board, if applicable, and other fees except student activity fees;*

*(8) Conduct an annual physical inspection of facilities and make recommendations regarding maintenance and construction to the board of governors;*

*(9) Review and approve all contracts and purchases negotiated or awarded by the president with or without competitive bidding and all contracts for consultative services entered by the president;*

*(10) Represent the institution or community college system at official functions of the Commonwealth;*

*(11) Take other action necessary to effectuate the powers and duties delegated to it;*

*(12) Conduct an evaluation of the president and forward the results of that evaluation with recommendation to the chancellor for submission to the board of governors; and*

*(13) Make a full report to the General Assembly, within the first month of each regular session of the condition and operation of the university since the date of the previous report with recommendations concerning the university.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*The president of the community college system and each regional institution in the system shall be* *appointed by the board of governors. The president shall be the chief executive officer of that institution or community college system. He may attend all meetings of the council of that institution and shall speak on all matters before the council, but shall not vote. Subject to the stated authority of the board of governors and the council of trustees, each president shall:*

*(1) Appoint the employees, professional and noninstructional, graduate assistants and others as necessary, and fix the salaries and benefits of employees, professional and noninstructional, and establish policies and procedures governing employment rights, promotion, dismissal, tenure, leaves of absence, grievances, and salary schedules;*

*(2) Make and implement specific campus policies pertaining to instructional programs, research programs, and public service programs and academic standards in accordance with policies of the board of governors following consultation with the council of trustees, faculty, and students;*

*(3) Develop and implement policies and procedures for the administration of the institution or community college system;*

*(4) Develop and implement, in conjunction with the local campus student government association, policies and procedures by which student organizations may be created and operated;*

*(5) Establish policies and procedures for the admission, discipline, and expulsion of students which shall be consistent with policies of the board of governors and the local council of trustees;*

*(6) Establish policies and procedures governing the use of institutional facilities and property in accordance with guidelines established by the local council of trustees;*

*(7) Fix student activity fees and supervise the collection, retention, and expenditure thereof;*

*(8) Waive, defer, and refund tuition fees and other charges and fees consistent with policies established by the board of governors;*

*(9) Prepare and, after review and action by the council of trustees, submit to the chancellor the operating and capital budget requirements for the institution or community college system;*

*(10) Determine from appropriations, tuition fees, charges and other fees, and other available funds with the exception of student activity fees, the expenditures to be made for instructional, extracurricular, administrative, custodial and maintenance services, equipment and supplies, and for furniture for instructional, extracurricular, administrative and service facilities and to reallot the sums among the various expenditure classifications necessary for the effective management of the institution. The reallotment shall not exceed the total allocations of the institution;*

*(11) Within the limitations of the operating budget and other available funds in accordance with the procedures established by the board of governors and with the approval of the local council of trustees, negotiate and award all contracts for equipment, services and supplies in accordance with purchasing requirements established by KRS Chapters 45, 45A and 164A;*

*(12) Cooperate with and accept grants and assistance from federal and state agencies, local governments or other political subdivisions, foundations, corporations, or any other source for any of the lawful purposes of the institution. The community college system and each institution shall have the power to bank and use grants as directed by the grantor and subject to the limitations of this Act. All moneys received from sources authorized by this section shall be appropriated to each of the several institutions granted the moneys. All moneys shall be subject to audit by the Auditor of Public Accounts;*

*(13) Authorize personnel to travel within or without the Commonwealth at institutional expense in accordance with regulations of the council of trustees;*

*(14) Within the limitations of the operating budget and other available funds, enter into contracts for consultative service in accordance with KRS Chapters 45 and 164A;*

*(15) Enter into contracts in accordance with policies of the council of trustees, and to enable students to engage in student teaching or other training in order to obtain experience in a particular field;*

*(16) Employ or contract for the necessary institutional services consistent with policies and procedures established by the board of governors; and*

*(17) Perform all things necessary and required for the orderly operation of the institution.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*The board of governors shall prescribe minimum standards for graduation from the system. Each graduate shall receive the diploma the board shall prescribe. The system shall be authorized to grant baccalaureate and master degrees for successful completion of prescribed courses of study and other certificates and degrees as the board may authorize.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*No person shall be denied a position as a governor, trustee, faculty member, employee, or student with the system or its constituent institutions because of race, color, religion, creed, ancestry, age, sex, national origin, physical handicap or political party affiliation.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*The activities of the system under this Act shall be subject to an audit by the Auditor of Public Accounts, but the system shall not be required to pay a fee for the audit. The system shall make a biennial report to the General Assembly showing its condition at the end of each biennium.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*All powers, rights, privileges, duties and obligations, statutory, contractual or otherwise, of the institutions or their predecessors and their respective councils of trustees and officers, heretofore existing and not otherwise changed or repealed by this Act, shall continue in full force and effect.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) An annual report shall be submitted by the community college system and each institution in the system to the Kentucky Regional System of Higher Education. The system shall present this report to the Governor, the Legislative Research Commission and the Council on Higher Education which shall include data for all programs of the institution and the community college system. Each report, to be submitted prior to September 1, shall cover the twelve (12) month period beginning with the summer term of the preceding year and shall include:*

*(a) The following counts and distributions for each term during the period:*

*1. The definitions and numbers of faculty members employed full-time, of faculty members employed part-time, of full-time students enrolled in graduate courses, of full-time students enrolled in undergraduate courses, of part-time students enrolled in graduate courses, and of part-time students enrolled in undergraduate courses;*

*2. The total numbers of undergraduate student credit hours, divided into lower division and upper division course levels, and of graduate student credit hours divided into the master and specialist levels;*

*3. The number of different courses scheduled by level of instruction and the number of sections of individual instruction scheduled by level of instruction; and*

*4. The number of terms scheduled and the dates thereof.*

*(b) For the summer term and the following academic year in total and for each program category, a classification of faculty members or other professional employees by title, including: professor, associate professor, assistant professor, instructor, lecturer, research associate, librarian, and academic administrator; faculty members or other professional employees under each title to be subdivided by the type of assignment, teaching and nonteaching, and each such set of faculty members or other professional employees to be further subdivided by type of employment, full-time or part-time; and the following aggregates for each subdivided classification:*

*1. The number of faculty and other professional employees and their full-time equivalence in instructional and noninstructional functions;*

*2. The sum of credits assigned to undergraduate classroom courses and the sum of credits assigned to graduate classroom courses taught, divided into lower division, upper division, master, and specialist course levels;*

*3. The sum of credits assigned to undergraduate individual instruction courses and the sum of credits assigned to graduate individual instruction courses taught, divided into lower division, upper division, master, and specialist course levels;*

*4. The sum of undergraduate classroom student credit hours and the sum of graduate classroom student credit hours generated, divided into lower division, upper division, master, and specialist course levels;*

***5. The sum of undergraduate individual instruction student credit hours and the sum of graduate individual instruction student credit hours generated, divided into lower division, upper division, master, and specialist course levels; and***

***6. The total salary paid for instructional functions and for noninstructional functions and the amount of this salary paid for each of these functions from university funds, federal funds, and other funds.***

***(c) For each term of the period covered for each faculty member employed full-time identified by program category and title, the report shall contain an analysis of the average hours per week spent in university-related activities, stating specifically hours spent in undergraduate classroom contact and graduate classroom contact, hours spent in preparation, hours spent in research, and hours spent in public service.***

***(2) In addition to the requirements of subsection (1) of this section, each report covering the twelve (12) month period shall include for all programs of the institution:***

***(a) The minimum number of credits required for a baccalaureate degree and for a master degree; and***

***(b) The number of bachelor degrees, master degrees, and specialist degrees, awarded in the three (3) previous years and those estimated for that year.***

Section 15. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to ***the*** acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the ***Board of Governors of the Kentucky Regional System of Higher Education, and the board of trustees and the council of trustees*** [~~governing boards~~] of institutions of higher education pertaining to students attending or applicants to ***the*** [~~such~~] institutions or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Commission" means the Legislative Research Commission;

(5) "Filed" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has been submitted to the commission in accordance with this chapter;

(6) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(7) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(8) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, or a standing committee of the General Assembly;

(9) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities;

(10) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping or similar responsibilities upon business entities in the Commonwealth; and

(11) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245.

Section 16. KRS 41.290 is amended to read as follows:

Every department, institution or other agency of the state government having private funds or contributions available for its support or for the purpose of defraying the expenses of any work done under its direction shall deposit such funds or contributions with the Treasurer, and shall certify to the Finance and Administration Cabinet the sources from which the funds or contributions were received, the terms and conditions under which, and the purpose for which, they were received, the names of the trustees or administrators of the funds or contributions, and the name of the person authorized to approve expenditures from each fund or contribution. All disbursements from ***these*** [~~such~~] funds and contributions shall be made by the Treasurer on the warrants of the Finance and Administration Cabinet, which shall issue ***the*** [~~such~~] warrants only upon adequate vouchers approved by the person authorized to approve the expenditures. Separate accounting shall be made for each [~~such~~] contribution, and the receipts and disbursements [~~thereof~~] shall be maintained by the Finance and Administration Cabinet. This section ***shall*** [~~does~~] not apply to private funds of students in state educational institutions nor to the private funds of patients or prisoners in state charitable or correctional institutions, when ***the*** [~~such~~] funds are deposited with an officer of ***the*** [~~such~~] institutions for safekeeping, nor to the private funds or contributions made and available to the ***Board of Governors of the Kentucky Regional System of Higher Education or the board of trustees or council of trustees*** [~~governing boards~~] of the state supported institutions of higher learning.

Section 17. KRS 45A.335 is amended to read as follows:

As used in KRS 45A.330 to 45A.340 except as may be otherwise indicated by the context:

(1) "Agency" means any of the departments of the state government, and any division, board, bureau, commission or other instrumentality within ***the*** [~~such~~] department and any independent state authority, commission, instrumentality or agency, but it does not include a school district or other political subdivision nor an authority, commission, instrumentality or agency created pursuant to compact or agreement between or among the state of Kentucky and another state or states;

(2) "Officer or employee" means a member of ***the Board of Governors of the Kentucky Regional System of Higher Education or*** the ***board*** [~~boards~~] of trustees, or ***the council of trustees*** [~~regents~~] of a state university, except faculty and student members, and a person holding an office, position or employment in an agency, but it does not include other persons who serve without salary and it does not include members or employees of school boards or district boards of education or faculty or staff of state institutions of higher learning or, as used in KRS 45A.340(5), citizen members of boards, commissions or independent state authorities who may receive per diem allowances for attendance at meetings of the boards, commissions or authorities on which they serve;

(3) "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered, but it does not include the salary or other payment provided by law or appropriation for services rendered in a public office, position or employment.

Section 18. KRS 45A.340 is amended to read as follows:

(1) No officer or employee of the General Assembly, or officer or employee of an agency as defined in KRS 45A.335, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services to be rendered, either by himself or another, in negotiations with the state or an agency for the purchase by the state or an agency of an interest in real property. This section shall not apply to appearances before any court, except that negotiations shall be prohibited as aforesaid at any time.

(2) No officer or employee of an agency or member of a state board or commission, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust, or corporation, in any contract for the performance of any work in the making or letting or administration of which ***the*** [~~such~~] officer or employee may be called upon to act or vote. No [~~such~~] officer or employee may represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which ***the*** [~~such~~] officer or employee may be called upon to act or vote. ***No*** [~~Nor may any such~~] officer or employee ***shall*** take, solicit or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation ***of this prohibition shall be***

[~~hereof is~~] void. For the purposes of this section, the holding of less than five percent (5%) of the stock of a corporation ***shall*** [~~is~~] not ***be*** considered an interest.

(3) No officer or employee of the General Assembly or officer or employee of any agency shall, for compensation, appear before an agency as an expert witness.

(4) No officer or employee of the General Assembly, or officer or employee of any agency, shall act as officer or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any corporation, company, association or firm in which he or his spouse has any interest greater than five percent (5%) of the total value thereof.

(5) No officer or employee of an agency or appointee shall knowingly himself or by his partners or through any corporation which he controls or in which he owns or controls more than ten percent (10%) of the stock, or by any other person for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract, agreement, sale or purchase of the value of twenty-five dollars ($25) or more, made, entered into, awarded or granted by any agency, unless said contract, agreement, sale or purchase was made or let after public notice and competitive bidding.

(6) No officer, employee or appointee of an agency, including persons who serve without salary or other payment for their services, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services rendered or to be rendered, either by himself or another, in any cause, proceeding, application or other matter which is before ***the*** [~~said~~] agency or before the department of state government in which ***the*** [~~said~~] agency functions.

(7) No member of ***the Board of Governors of the Kentucky Regional System of Higher Education,*** a board of trustees or ***a council of trustees*** [~~regents~~] shall have an interest in any contract with a state university unless ***the*** [~~such~~] contract shall have been subjected to competitive bidding in compliance with KRS Chapter 45, unless ***the*** [~~such~~] trustee or ***governor*** [~~regent~~] shall have been the lowest bidder and unless ***the*** [~~such~~] trustee or ***governor*** [~~regent~~] shall have first notified in writing the remaining members of the board ***or council,*** and [~~to~~] the newspaper having the largest circulation in the county in which the state university is located[~~;~~] of his intention to bid on ***the*** [~~such~~] contract.

Section 19. KRS 56.495 is amended to read as follows:

The ***Board of Governors of the Kentucky Regional System of Higher Education*** [~~boards of regents of the respective state colleges or universities~~] and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, ***if*** [~~provided that~~] prior to seeking the final approval required by KRS 56.491, the board of the state college or of the university shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents or attorneys. The request shall include a general description of the project and its need, use, location, approximate size and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 20. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the ***Board of Governors of the Kentucky Regional System of Higher Education, the*** board of trustees of the University of Kentucky ***and the University of Louisville and***[~~;~~] members of the ***council of trustees*** [~~board of regents~~] respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University***,*** [~~and~~] Murray State University***, Kentucky State University, Northern Kentucky University and the community college system shall*** [~~may~~] not be removed except for cause.

Section 21. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf and the Kentucky School for the Blind. The State Board for ***Adult, Vocational, Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. Any such lease may be for any initial term commencing with the date of ***the*** [~~such~~] lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on***,*** [~~(~~]and provide reserves for***,***[~~)~~] any revenue bonds which ***the*** [~~said~~] State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring ***the*** [~~such~~] television and related facilities, with appurtenances and ***the*** [~~such~~] costs as may be incident to the issuance of ***the*** [~~such~~] bonds.

(b) Each [~~such~~] option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for ***the*** [~~such~~] succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the Superintendent of Public Instruction, and delivered to the secretary of the Finance and Administration Cabinet as a member of ***the*** [~~said~~] commission. ***The***[~~; provided, however, that such~~] option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of ***the*** [~~such~~] succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate ***the*** [~~such~~] leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted [~~thereby~~], but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the Superintendent of Public Instruction and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any such contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to such reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any such contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of ***the*** [~~such~~] television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the ***contributions, gifts, matching funds, devises and bequest*** [~~same~~] are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state boards may, on the recommendation and with the advice of the Superintendent of Public Instruction, prescribe, print, publish and distribute at public expense ***the*** [~~such~~] administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as each deems necessary for the efficient management, control and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by each board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the Superintendent of Public Instruction or his designee, the state boards shall, within their respective jurisdictional areas, establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the Department of Education.

(6) Vocational and nonvocational programs offered at the state universities shall be operated and

administered by those universities consistent with the regulations developed by ***the Board of Governors of the Kentucky Regional System of Higher Education or*** the board of trustees or ***council of trustees*** [~~regents~~] and approved by the Council on Higher Education for the issuance of associate, baccalaureate or graduate degrees. The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] and the State Department of Education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board. The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], with approval of the Council on Higher Education, may contract with institutions of public higher education for the operation of specific programs and projects.

(7) The Department of Education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], contract with a local school system for ***the*** [~~such~~] services.

(8) The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.

(9) The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.

(10) The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.

Section 22. KRS 161.565 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapter 161, the contribution of university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the teachers' retirement system by the ***council of trustees*** [~~board of regents~~] of the employing university. After August 1, 1982, any contribution by a university faculty member shall be picked up by the employing university pursuant to KRS 161.540(2).

Section 23. KRS 162.310 is amended to read as follows:

***As used in KRS 162.310 to 162.330 unless the context otherwise requires, "governing body" means the Board of Governors of the Kentucky Regional System of Higher Education and the boards of trustees of the University of Kentucky and the University of Louisville.*** For the purpose of providing buildings to be used in connection with any state educational institution, the governing body of the institution may convey to any person complying with KRS 162.320 and 162.330 a fee simple title, with covenant of general warranty of title, to real estate held by or for the institution, as a site for the buildings.

Section 24. KRS 162.340 is amended to read as follows:

***As used in KRS 162.350 to 162.380 unless the context otherwise requires, "governing body" means the Board of Governors of the Kentucky Regional System of Higher Education and the boards of trustees of the University of Kentucky and the University of Louisville.*** The governing body of any state educational institution may, under the provisions of KRS 162.350 to 162.380, erect buildings and appurtenances to be used in connection with the institution for educational purposes.

Section 25. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The council shall*** [~~to~~] be composed of the Superintendent of Public Instruction, and seventeen (17) lay members appointed by the Governor. ***The lay members shall include***[~~,~~] one (1) from each congressional district, ***and ten (10)*** [~~eight (8)~~] from the state at large ***including*** [~~which shall include~~] a student member. ***The student member***[~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the

Commonwealth as determined by the residency guidelines of the council, and shall be ***selected*** [~~elected~~] annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the Governor one (1) nominee, ***and***[~~;~~] from this list of nominees, the Governor shall appoint a student member[~~, one (1) from a list of two (2) nominated by the President Pro Tem of the Senate, and one (1) from a list of two (2) nominated by the Speaker of the House of Representatives~~]. ***All lay members, except for the student member shall be appointed by the Governor pursuant to the recommendations of the Governor's Higher Education Selection Committee.*** Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. ***When*** [~~Whenever~~] a lay member's term expires after ***January 1, 1992*** [~~July 15, 1982~~], the member appointed by the Governor to fill the vacancy shall be appointed for a ***six (6)*** [~~four (4)~~] year term in the same manner as the initial appointment. Any person, other than the Superintendent of Public Instruction, holding either an elective or appointive state office or who is a member of the ***Board of Governors of the Kentucky Regional System of Higher Education, or the board of trustees or council of trustees*** [~~governing board~~] of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity.

Section 26. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans [~~so~~] developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall, for all purposes of federal legislation relating to planning, be considered the "single state agency" as that term may be used in ***the*** [~~such~~] federal legislation.[~~; provided, however, that~~] When ***the*** [~~such~~] federal legislation requires additional representation on any [~~such~~] "single state agency", the Council on Higher Education shall establish [~~such~~] advisory groups as [~~may be~~] necessary to satisfy [~~such~~] federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors [~~as~~] the council may [~~in its sole discretion~~] deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of ***the*** [~~such~~] formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the legislature, the Council on Higher Education, ***the Board of Governors of the Kentucky Regional System of Higher Education*** or the [~~governing~~] board ***of trustees or the council of trustees*** of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd numbered year. [~~The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the ***Board of Governors of the Kentucky Regional System of Higher Education or the board of trustees*** [~~governing boards~~] of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet and/or State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. [~~Provided,~~] Nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the [~~state system of~~] higher education ***system*** through merger with a state college.

(9) [~~Approve the teacher education programs in the public institutions.~~

~~(10)~~] Elect a chairman annually from the voting membership and appoint an executive director and [~~such~~] staff [~~as may be needed~~] and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of Personnel and the secretary of the Finance and Administration Cabinet.

***(10)***[~~(11)~~] Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to ***the Board of Governors of the Kentucky Regional System of Higher Education or*** one (1) or more institutions of higher learning. ***The*** [~~Such~~] responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

***(11)***[~~(12)~~] Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

***(12) Develop in cooperation with each state institution of higher education a comprehensive orientation program for newly appointed governing board trustees. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission budget, plans, policies, strengths, and weaknesses. The orientation program shall also include meetings of the newly appointed trustees for each institution with its faculty, students, administrators, and other board members.***

Section 27. KRS 164.030 is amended to read as follows:

The ***Board of Governors of the Kentucky Regional System of Higher Education and the boards of trustees of the University of Kentucky and the University of Louisville*** [~~governing board of each of the state institutions of higher learning~~] shall make ***the*** [~~such~~] changes or adjustments in the curricula and ***the*** [~~such~~] rules and regulations affecting their schools [~~as are~~] necessary to carry out and put into effect the rulings of the Council on Higher Education in regard to curricular offerings, entrance fees and qualifications for admission to and reports from their respective institutions.

Section 28. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky ***shall be*** [~~is~~] vested in a board of trustees ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist*** [~~consisting~~] of sixteen (16) competent citizens of Kentucky appointed by the Governor, two (2) members of the faculty of the University of Kentucky[~~, one (1) member of the teaching faculty of the community college system,~~] and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The ***initial*** terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. ***When a term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be for a six (6) year term.*** [~~Four (4) of the sixteen (16) appointed members shall be appointed each year.~~] Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall [~~so~~] make the appointments [~~as~~] to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. ***All gubernatorial appointments shall be made pursuant to the recommendations of the Governor's Higher Education Selection Committee.*** Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments ***except that the appointments shall be for terms of six (6) years.***

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) [~~The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.~~

~~(4)~~] The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

***(4)***[~~(5)~~] No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the ***two (2)*** [~~three (3)~~] faculty members.

***(5)***[~~(6)~~] The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed ***three (3)*** [~~four (4)~~].

Section 29. KRS 164.284 is amended to read as follows:

(1) When any person sixty-five (65) years of age or older, who is a resident of the Commonwealth, is admitted and enrolls as a student in any state-supported institution of higher learning in this Commonwealth, ***the Board of Governors of the Kentucky Regional System of Higher Education or*** the ***boards*** [~~board~~] of trustees of the ***University of Kentucky and the University of Louisville*** [~~institution or other appropriate institution officials~~] shall waive all tuition charges and fees for ***the*** [~~such~~] student, except as provided in subsection (2) of this section.

(2) ***If*** [~~In the event that~~] classes are full or the granting of free admission requires additional units, the institution may deny admission under this section.

Section 30. KRS 164.287 is amended to read as follows:

Each board of [~~regents or~~] trustees ***or council of trustees*** of the state-supported institutions of higher learning ***may*** [is ~~authorized to~~] provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board ***or council***. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 31. KRS 164.2871 is amended to read as follows:

(1) The ***board of trustees or the council of trustees*** [~~governing board~~] of each state institution of higher education ***may*** [~~is authorized to~~] purchase liability insurance for the protection of the individual members of the governing board ***and council***, faculty[~~,~~] and staff of ***the*** [~~such~~] institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of ***the*** [~~such~~] institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state institution of higher education through a retirement program sponsored by the state institution of higher education ***shall be*** [~~are hereby~~] exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards ***and councils***, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 32. KRS 164.288 is amended to read as follows:

Any of the institutions of higher education or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the institutions acting through its president or its ***board of trustees or council of trustees may*** [~~governing board is hereby authorized to~~] receive ***the*** [~~such~~] services, equipment, supplies, materials and funds as are available. The institutions ***may*** [~~are authorized to~~] use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 33. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of ***the*** [~~any governing~~] board of ***trustees or council of trustees of*** any institution of higher education ***and the community college system***, supported in whole or in part by state funds, whether or not described as non-voting, shall have the right to vote on all matters except that of faculty compensation.

Section 34. KRS 164.2891 is amended to read as follows:

Any university under the jurisdiction of the council on higher education may have a faculty member as a voting member of its board of trustees or ***council of trustees*** [~~regents~~].

Section 35. KRS 164.290 is amended to read as follows:

(1) The state colleges formerly designated as Eastern Kentucky State College, Morehead State College, Murray State College, Western Kentucky State College, Northern Kentucky State College, and Kentucky State College may be known and recognized as Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Northern Kentucky University, and Kentucky State University.

(2) Kentucky State University located at Frankfort, Kentucky, is a land-grant state institution and, as such, all the provisions of KRS Chapter 164, [~~with the exception of the provisions of KRS 164.320 concerning the appointment of the initial board of regents,~~] applying to the other five (5) regional universities shall likewise apply to Kentucky State University. It is the intent of the General Assembly that Kentucky State University shall serve as a four-year residential institution emphasizing a program of liberal studies appropriate to its size and resources.

Section 36. KRS 164.291 is amended to read as follows:

The president of the student body of any state university may receive an honorarium for his service. The receipt of ***the*** [~~such~~] honorarium or other compensation from the university shall not constitute a conflict of interest ***if*** [~~in the event~~] he serves on the ***Board of Governors of the Kentucky Regional System of Higher Education or the board of trustees or council of trustees*** [~~governing board~~] of the university.

Section 37. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on Higher Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on Higher Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees and programs beyond the masters-degree level to meet the requirements for teachers, school leaders and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those ***in*** [~~listed for~~] the [~~University of Kentucky~~] community college system, as provided by this chapter.

Section 38. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.130 for members of the board of trustees of the University of Kentucky, in KRS 164.820 for members of the board of trustees of the University of Louisville, and in ***Section 7 of this Act*** [~~KRS 164.320~~] for members of the ***council of trustees*** [~~board of regents~~] of other Kentucky universities and ***the community college system*** [~~state colleges~~], no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or ***council of trustees*** [~~board of regents~~] of any state supported college or university.

Section 39. KRS 164.352 is amended to read as follows:

If a board of trustees or ***council of trustees*** [~~regents~~] of a state supported institution of higher learning provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 40. KRS 164.360 is amended to read as follows:

[~~(1) Each board of regents may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.~~

~~(2)~~] No person shall be employed ***as president, faculty member or employee of the state institutions of higher education*** for a longer period than four (4) years. No person shall be employed who is related to any member of the Board of ***Governors of the Kentucky Regional System of Higher Education or the council of trustees*** [~~regents~~] as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law, brother-in-law, son-in-law or daughter-in-law, except that upon written recommendation of the president of the university or ***the community*** college ***system***, one (1) [~~such~~] relative of each member of the Board of ***Governors of the Kentucky Regional System of Higher Education or the council of trustees*** [~~regents~~] may be appointed upon confirmation by the other [~~three (3)~~] appointed members.

[~~(3) Each board may remove the president of the university or college, and upon the recommendation of the president may remove any faculty member or employe, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairman of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.~~]

Section 41. KRS 164.370 is amended to read as follows:

***The council of trustees of the institutions set out in Section 1 of this Act*** [~~Each board of regents~~] may invest the faculty, [~~or~~] a committee of the faculty and students ***or the local advisory board of the community colleges*** with the power to suspend or expel any student for disobedience to its rules, or for any other contumacy, insubordination or immoral conduct. In every case of suspension or expulsion of a student, the person suspended or expelled may appeal to the ***council of trustees*** [~~board of regents~~]. The ***council of trustees*** [~~board of regents~~] shall prescribe the manner and the mode of procedure on appeal. The decision of the ***council of trustees*** [~~board of regents~~] shall be final.

Section 42. KRS 164.375 is amended to read as follows:

(1) The boards of trustees of the University of Kentucky and the University of Louisville and the ***council of trustees*** [~~boards of regents~~] of those state ***universities and the community college system*** [~~colleges~~] set out in ***Section 1 of this Act*** [~~KRS 164.290~~] shall[~~, within ninety (90) days of July 15, 1986,~~] adopt statements of campus policy which prohibit any action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization. ***These*** [~~Such~~] policy statements shall govern the conduct of students, faculty and other staff as well as visitors and other licensees and invitees on such campuses and property. The penalties for violations of ***these*** [~~such~~] policy statements shall be clearly set forth therein and shall include provisions for the ejection of a violator from ***the*** [~~such~~] campus and property, in the case of a student or faculty violator his suspension, expulsion or other appropriate disciplinary action and, in the case of an organization which authorizes ***this*** [~~such~~] conduct, rescission of permission for that organization to operate on campus property. ***The*** [~~Such~~] penalties shall be in addition to any penalty pursuant to the penal law or any other chapter to which a violator or organization may be subject. A copy of ***the*** [~~such~~] policy statements which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be given to all students enrolled in ***the*** [~~said~~] college ***or university*** and shall be deemed to be part of the bylaws of all organizations operating on ***the*** [~~said~~] campus.

(2) Nothing contained in this section is intended nor shall it be construed to limit or restrict the freedom of speech nor peaceful assembly.

Section 43. KRS 164.377 is amended to read as follows:

No person shall knowingly make or cause to be made any key, for which notice of the prohibition against duplication thereof has been given either by impressing into the key the legend "Unlawful to duplicate this key" or by placing the notice "It is unlawful to duplicate this key without the permission of the university." upon the receipt for the key which is to be signed by the recipient of the key, for any building, laboratory, facility, room, or other lock of any college or university which is supported wholly, or in part, by the Commonwealth of Kentucky, contrary to any administrative regulation respecting duplication of keys by the board of trustees ***or council of trustees*** of ***the community*** [~~such~~] college ***system*** or university.

Section 44. KRS 164.380 is amended to read as follows:

The ***council of trustees*** [~~board of regents~~] of each of the state universities [~~or colleges~~] may maintain, in connection with the ***university*** [~~college~~], a model and practice school under the supervision of thoroughly trained teachers for the purpose of giving observation and practice work to the student teachers.

Section 45. KRS 164.410 is amended to read as follows:

(1) The ***Board of Governors of the Kentucky Regional System of Higher Education and the board of trustees*** [~~governing board~~] of an institution of higher education may purchase or lease land for the purpose of securing the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The ***Board of Governors of the Kentucky Regional System of Higher Education or the board of trustees*** [~~governing board~~] of ***the community college system and the institutions of higher education*** [~~each institution~~] shall periodically review the assets of the institution ***and the community college system*** and shall sell and convey those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 46. KRS 164.420 is amended to read as follows:

The treasurer of each ***council of trustees*** [~~governing board~~] shall receive and disburse all money under the control of the ***council*** [~~board~~], perform all acts that pertain to his office under the direction of the ***council*** [~~board~~], and make timely reports to the ***council*** [~~board~~] on a schedule established by the ***council*** [~~board~~].

Section 47. KRS 164.440 is amended to read as follows:

Each ***council of trustees*** [~~board of regents~~] shall appoint a bank or trust company to serve as its depository. The depository shall, before entering upon its duties, execute a bond for the faithful performance of the duties of the office, to be approved by the ***council*** [~~board~~]. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency exceeds the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of this state and the bonding laws applying to the safeguarding of state funds. The depository shall be designated for a period of one (1) year or a part thereof, and before entering upon its duties shall agree with the ***council of trustees*** [~~board of regents~~] as to the amount of interest to be paid on average daily or average monthly balances. The interest shall not be less than two percent (2%) if the ***council*** [~~board~~] pays the premium on the depository bond. The penal sum of the depository bond shall be determined by the ***council of trustees*** [~~board of regents~~] and shall as nearly as possible cover the maximum amount of money that the ***council*** [~~board~~] might have on hand in the depository at any one (1) time. The depository shall hold for the ***council*** [~~board~~], subject to its withdrawal at any time, all funds deposited by the treasurer or any agent of the ***council*** [~~board~~], and shall pay over to ***the*** [~~such~~] person and in ***the*** [~~such~~] manner as the ***council*** [~~board~~] directs all funds so deposited. The depository shall keep full and complete accounts of all the ***council's*** [~~board's~~] funds, make [~~such~~] reports to the ***council*** [~~board~~] or its authorized agents as the ***council*** [~~board~~] directs, and keep and turn over to the successor of its office all records relating to its transactions and duties together with all public funds on hand.

Section 48. KRS 164.450 is amended to read as follows:

The secretary of each ***council of trustees*** [~~board of regents~~] shall keep and prepare all records, books and papers belonging to the ***council*** [~~board~~]. He shall keep a journal of the proceedings of the ***council*** [~~board~~] in which, if requested by any member of the ***council*** [~~board~~], the "yeas" and "nays" on all questions shall be entered. He shall prepare, under the direction of the ***council*** [~~board~~], all reports and estimates, and shall execute all matters belonging to his office. His compensation shall be fixed by the ***council*** [~~board~~].

Section 49. KRS 164.575 is amended to read as follows:

As used in KRS 164.575 to ***164.595*** [~~164.600~~], unless the context requires otherwise, "board" means the Board of ***Governors*** [~~trustees~~] of the [~~University of~~] Kentucky ***Regional System of Higher Education.***

Section 50. KRS 164.580 is amended to read as follows:

The [~~University of~~] Kentucky ***Regional System of Higher Education*** community college system is established. Each community college shall provide:

(1) A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;

(2) Technical and semiprofessional programs of two (2) years or less; and

(3) Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented.

Section 51. KRS 164.583 is amended to read as follows:

(1) Each community college of the [~~University of~~] Kentucky ***Regional System of Higher Education*** community college system may offer, within the two year academic curriculum of the college, any and all lower division academic courses offered for undergraduate credit at any and all of the four year state supported [~~colleges and~~] universities.

(2) All lower division academic courses offered by the community colleges shall be transferable for academic credit to any and all four year state supported [~~colleges and~~] universities, regardless of the number of academic credits earned by any student at one (1) or more community college.

(3) Nothing herein shall be construed or interpreted to change, reduce, or otherwise affect the required distribution between lower division and upper division courses now required for matriculation in an undergraduate program at any institution of higher education.

Section 52. KRS 164.595 is amended to read as follows:

(1) The board ***of governors*** has the same powers with respect to the community colleges that it has as to the ***state universities*** [~~University of Kentucky~~] in general. The board shall designate each community college with a name that includes the words "Community College."

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction or operation of community colleges. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of community colleges.

Section 53. KRS 164.950 is amended to read as follows:

The [~~governing~~] board ***of trustees and the council of trustees*** of each public institution of higher education ***and the community college system may*** [is ~~authorized~~ ~~to~~] establish a safety and security department and appoint safety and security officers and other employees for the university, college, or other institution of public higher education for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of ***the*** [~~said~~] institution, and to designate and operate emergency vehicles. Safety and security officers [~~so appointed~~] shall take an appropriate oath of office, in the form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the [~~governing~~] board ***of trustees and the council of trustees.***

Section 54. KRS 164.955 is amended to read as follows:

(1) Safety and security officers [~~so appointed~~] shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing [~~governing~~] board ***of trustees and the council of trustees*** of the respective institution employing them. Without limiting the generality of the foregoing, ***the*** [~~such~~] safety and security officers [~~are hereby specifically authorized and empowered, and it~~] shall [~~be their duty~~]:

(a) [~~To~~] Preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage;

(b) [~~To~~] Enforce, and [~~to~~] assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of ***the*** [~~said~~] institution, and [~~to~~] assist and cooperate with other law enforcement agencies and officers. ***The*** [~~Provided, however, That such~~] safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. ***The*** [~~Said~~] powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which ***the*** [~~such~~] property is located, dependent upon the jurisdiction involved.

(2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:

(a) When in hot pursuit of an actual or suspected violator of the law; [~~or~~]

(b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; [~~or~~]

(c) When requested to act by the chief of police of the city or county in which the institution's property is located; [~~or~~]

(d) When requested to act by the sheriff of the county in which the institution's property is located; [~~or~~]

(e) When requested to act by the Director of State Police; [~~or~~]

(f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; [~~or~~]

(g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or

(h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.

(3) Safety and security officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, ***if the*** [~~provided such~~] investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the university. ***If*** [~~Where~~] desirable and at the discretion of the institution of higher education's police officials, the university safety and security department may coordinate ***the*** [~~said~~] investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.

(4) Safety and security departments created and operated by the ***board of trustees or council of trustees***

[~~governing boards~~] of public institutions of higher education shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof ***shall be*** [~~are~~], for all purposes, deemed public police officers.

(5) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Kentucky state police, sheriff, constable, or other peace officer either on the property of an institution of higher education or otherwise.

Section 55. KRS 164.960 is amended to read as follows:

All persons appointed as safety and security officers pursuant to KRS 164.950 to 164.980 shall, at the time of their employment, be:

(1) Not less than eighteen (18) years of age; [~~and~~]

(2) Comply with the requirements of KRS 61.300, other than the age requirement; and

(3) Shall possess [~~whatever~~] other requirements [~~as may be~~] set by the [~~governing~~] board ***of trustees and the council of trustees*** of the institution of public higher education which employs them.

Section 56. KRS 164.965 is amended to read as follows:

The [~~governing~~] board ***of trustees and the council of trustees*** of each institution of public higher education may provide for the appointment or promotion to the ranks and grades and positions of the department ***the*** [~~such~~] officers and civilians [~~as are~~] considered by the board ***of trustees and the council of trustees*** to be necessary for the efficient administration of the department. ***The*** [~~Such~~] officers and civilians shall receive ***the*** [~~such~~] compensation [~~as shall be~~] fixed and paid by the board ***and the council.***

Section 57. KRS 164.970 is amended to read as follows:

(1) Vehicles used for emergency purposes by the safety and security department of a public institution of higher education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.

(2) Safety and security officers directly employed by the [~~governing~~] board ***of trustees and the council of trustees*** of public institutions of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the [~~governing~~] board ***of trustees and the council of trustees*** of the public institution of higher education so authorized in writing.

(3) Safety and security departments of public institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor; KRS 432.570 to the contrary notwithstanding.

(4) Safety and security departments of public institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the Justice Cabinet with regard to reporting of criminal and other statistics.

Section 58. KRS 164.975 is amended to read as follows:

(1) The [~~governing~~] boards ***of trustees and the councils of trustees*** of public institutions of higher education, each having the power and authority to govern and control the method and purpose of use of property owned or occupied by their respective institution, including travel over ***the*** [~~such~~] property, ***may*** [~~is each hereby confirmed in its authority to~~] regulate the traffic and parking of motor vehicles, bicycles or other vehicles as well as the traffic of pedestrians on, over and across the streets, roads, paths and grounds of real property owned, used or occupied by ***the*** [~~such~~] institution. ***The*** [~~Such~~] regulations applicable to traffic and parking may include, but not be limited to, the following provisions:

(a) Provisions governing the registration, speed, operation, parking and times, places and manner of use of motor vehicles, bicycles and other vehicles.

(b) Provisions prescribing penalties for the violation of such regulations, which penalties may include the imposition of reasonable charges, the removing and impounding***,*** [~~(~~]at the expense of the violator***,*** [~~)~~] of vehicles which are operated or parked in violation of ***the*** [~~such~~] regulations, and the denial of permission to operate vehicles on the property of ***the*** [~~such~~] institution.

(c) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by ***the*** [~~such~~] institution. [~~Provided, however, that~~] Nothing ***in this section*** [~~herein contained~~] shall be deemed to limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys or ways.

(2) Motor vehicle moving violations of regulations issued under this section shall be deemed violations of the appropriate equivalent sections of the motor vehicle laws of the Commonwealth and may be prosecuted in the courts having territorial jurisdiction over the physical location of the offense.

Section 59. KRS 164.980 is amended to read as follows:

No person shall falsely represent himself to be a safety and security officer, agent or employee of a safety and security department of a public institution of higher education and in ***the*** [~~such~~] assumed character, arrest, or detain, or search, or question, in any manner the person or property of any person, nor shall any person without the authority of the [~~governing~~] board ***of trustees or the council of trustees*** of the public institution of higher education wear its official uniform, insignia, badge, or identification of the department.

Section 60. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means ***the Board of Governors of the Kentucky Regional System of Higher Education or*** the board of trustees [~~or board of regents~~] constituting the corporate bodies established by ***Section 3 of this Act,*** KRS 164.160 and ***164.820*** [~~164.310~~] for the purpose of governing universities and colleges.

(2) "Institutions" means all public supported institutions of higher education in Kentucky recognized in KRS 164.100, [~~164.290, or~~] 164.810(1)(a) ***or Section 1 of this Act.***

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 61. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the public institutions of higher education electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election ***shall be*** [~~is~~] vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate ***those*** [~~these~~] responsibilities ***concerning accounting, purchasing and affiliated corporations*** by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of ***the*** [~~such~~] institutions. In the event of such election by the governing board:

(a) The treasurer of the university shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 62. KRS 164.357 is amended to read as follows:

(1) There is established as a separate administrative body of state government the Governmental Services Center at Kentucky State University which shall be attached to the Finance and Administration Cabinet for administrative purposes. The center shall be governed by the Governmental Services Center Authority.

(2) The authority shall consist of the president of Kentucky State University, who shall be chairman,

the secretary of the Finance and Administration Cabinet, the commissioner of the Department of Personnel, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority.

(3) The Governmental Services Center at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies and program managers of the state government. The center shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training at the center shall share the cost of the training on a pro-rata basis. The center shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs.

(4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the center may hold concurrently with their employment by the center, and subject to the provisions of KRS 164.360 [~~and 164.365~~], faculty appointments of appropriate rank at Kentucky State University.

(5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority.

Section 63. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of seventeen (17) competent citizens of Kentucky appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of ***the*** [~~such~~] termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in ***the*** [~~such~~] manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) ***After January 1, 1992*** at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of ***six (6)*** [~~four (4)~~] years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. ***All other gubernatorial appointments shall be pursuant to the recommendations of the Governor's Higher Education Selection Committee.*** Subject

to such requirements the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

Section 64. KRS 164.600 is amended to read as follows:

(1) There shall be a local advisory board for each community college, except as provided in KRS 165.160. Each local advisory board shall serve in an advisory capacity to the board and the head of the community college on the operation of the community college.

(2) Each local advisory board shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor ***pursuant to the recommendations of the Governor's Higher Education Selection Committee.*** The other two (2) local advisory board members shall be one (1) nonvoting member of the teaching faculty and one nonvoting member of the student body. An appointed member's term is four (4) years; however, when ***an appointed member's term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term*** [~~appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years~~].

(3) The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the local advisory boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(5) Local advisory board members shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

SECTION 65. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established the Governor's Higher Education Selection Committee which shall consist of seven (7) members representing each of the Supreme Court districts appointed by the Governor with the consent of the House of Representatives and the Senate. In the event the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.***

***(2) In selecting the members of the committee the Governor shall solicit recommendations from each of the following:***

***(a) Advisory Conference of Presidents;***

***(b) Council on Higher Education Student Advisory Council;***

***(c) Associations representing faculty from universities and community colleges;***

***(d) Associations representing university and community college alumni;***

***(e) Higher education advocacy groups;***

***(f) The State Board of Education; and***

***(g) Associations representing business and civil interests.***

***(3) Members of the committee shall serve six (6) year terms, except the initial appointments shall be as follows:***

***(a) One (1) member shall serve a three (3) year term;***

***(b) Two (2) members shall serve a four (4) year term;***

***(c) Two (2) members shall serve a five (5) year term;***

***(d) Two (2) members shall serve a six (6) year term.***

***The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.***

***(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.***

***(5) Beginning January 1, 1991 the committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to Section 3, except the student member, Section 7, KRS 164.130, 164.320, and 164.820 except the alumni members and to the Council on Higher Education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments made pursuant to KRS 164.820. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within thirty (30) days following receipt of the nominations.***

***(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as it deems necessary.***

***(7) The Governor's office staff shall provide support services for the committee.***

Section 66. The following KRS sections are repealed:

164.310 Boards of regents created.

164.320 Membership of board of regents.

164.330 Organization and officers of boards of regents — Expenses.

164.340 Meetings of boards — Quorum.

164.350 General powers of boards of regents.

164.365 Governing boards of institutions to have exclusive control of employment, tenure and official relations of employees.

164.370 Suspension or expulsion of students.

164.400 Incidental expenses — Fees.

164.460 Reports of president.

164.593 Paducah College may be included in system pursuant to agreement.

164.597 Northern Community College to be operated by Northern Kentucky University — Programs.

164.599 Property and equipment of Northern Community College transferred to Northern Kentucky University — Accrued funds from government agencies.

The Committee Substitute to **HB 612** is as follows:

**HB 612**, AN ACT relating to higher education.

WHEREAS, the ability of the state to attract and maintain jobs for its citizenry depends largely on the quality of higher education offered its people; and

WHEREAS, higher education is becoming increasingly important because of the direct and incidental role it will play in the state's education reform efforts; and

WHEREAS, the governance of higher education primarily rests with the board of trustees and board of regents of the respective universities; and

WHEREAS, duplication of services and programs and promotion of parochial interests are likely to result as the individual governing boards oversee the respective universities; and

WHEREAS, coordination and joint decisionmaking may bring about a more efficient system;

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission conduct a study to determine the feasibility of establishing a central governing board to govern higher education. The study shall also address the efficiency of establishing the central governing board and whether the central board shall be established to govern all universities and colleges within the state system or just the regional universities.

Section 2. The Commission shall make a report of its findings and recommendation, with suggestions for proposed legislation, if any to the Interim Joint Committee on Education no later than August 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost twenty thousand dollars ($20,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

**HB 664**, AN ACT relating to personal leave days for school employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 161.154 is amended to read as follows:

(1) For the purpose of this section, "school employees" shall mean any person for whom certification is required as a basis of employment in the public schools.

(2) Each district board of education ***shall*** [~~may~~] provide [~~up to~~] three personal leave days per school year to school employees, without loss of salary to the employee and without affecting any other type of leave granted by law, regulation or school board policy. Local boards of education may establish policy regarding the number of ***school employees*** [~~teachers~~] who may take personal leave on any one (1) day.

(3) ***Days of personal leave not taken or used by the school employee during the school year shall be added to the employee's accumulated sick leave as established in KRS 161.155.***

***(4) Except as provided in subsection (3) of this section,*** personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.152 to KRS 161.155 and shall be supported by personal affidavit of the school employee stating that the leave taken is personal in nature; no other reason for or verification of the leave shall be required.

***(5)***[~~(4)~~] Payments to school employees made by a district board of education under the provisions of this section ***shall be*** [~~are~~] presumed to be for services rendered and for the benefit of the common schools and such payments ***shall*** [~~do~~] not affect the eligibility of any school district to share in the distribution of funds from the public school foundation program fund as established in KRS Chapter 157.

**HB 669**, AN ACT relating to sick leave days.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, grandparents and spouse's grandparents, without reference to the location or residence of ***the*** [~~said~~] relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick-leave bank" shall mean an aggregation of sick-leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick-leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick-leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education after June 30, 1985.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick-leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick [-] leave bank. ***The*** [~~Such~~] plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed ***shall*** [~~will~~] be deducted from the days available to the contributing teacher. The sick [-] leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) A teacher may use up to thirty (30) days of sick leave following the adoption of a child or children.

(8) After July 1, 1982, a district board of education ***shall*** [~~may~~] compensate, at the time of retirement, an employee or a teacher for each unused sick-leave day. The rate of compensation for each unused sick-leave day shall be ***thirty percent (30%)*** [~~based on a percentage~~] of the daily salary rate calculated from the employee's or teacher's last annual salary[~~, not to exceed thirty percent (30%)~~]. Payment for unused sick [-] leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick-leave payment. The accumulation of ***these*** [~~such~~] days includes unused sick-leave days held by the employee or teacher at the time of implementation of ***the*** [~~such a~~] program.

(9) Any statute to the contrary notwithstanding, employees who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee was entitled on the date of transfer. ***This*** [~~Such~~] credit shall be for the purposes set forth in KRS 161.155***(8)***[~~(7)~~].

Section 2. The following KRS section is repealed:

161.623 Use of unused sick-leave days to determine service credit — Cost to system — Exclusivity of choice under chapter — Employer participation optional.

The Committee Substitute to **HB 669** is as follows:

**HB 669**, AN ACT relating to sick leave days.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, grandparents and spouse's grandparents, without reference to the location or residence of ***the*** [~~said~~] relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick-leave bank" shall mean an aggregation of sick-leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick-leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick-leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education after June 30, 1985.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick-leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick [-] leave bank. ***The*** [~~Such~~] plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed ***shall*** [~~will~~] be deducted from the days available to the contributing teacher. The sick [-] leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) A teacher may use up to thirty (30) days of sick leave following the adoption of a child or children.

(8) After July 1, ***1990*** [~~1982~~], a district board of education ***shall*** [~~may~~] compensate, at the time of retirement, an employee or a teacher for each unused sick-leave day. The rate of compensation for each unused sick-leave day shall be ***thirty percent (30%)*** [~~based on a percentage~~] of the daily salary rate calculated from the employee's or teacher's last annual salary[~~, not to exceed thirty percent (30%)~~]. Payment for unused sick [-] leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick-leave payment. The accumulation of ***these*** [~~such~~] days includes unused sick-leave days held by the employee or teacher at the time of implementation of ***the*** [~~such a~~] program.

(9) Any statute to the contrary notwithstanding, employees who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee was entitled on the date of transfer. ***This*** [~~Such~~] credit shall be for the purposes set forth in KRS 161.155***(8)***[~~(7)~~].

Section 2. Whereas the fiscal year for the Teachers Retirement System begins on July 1, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Title Amendment to **HB 669** is as follows:

Amend printed copy of **HB 669** by amending the title to read as follows:

"AN ACT relating to sick leave days and declaring an emergency."

**HB 701,** AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when with recklessness he causes or attempts to cause physical injury to ***an employee of a public or private educational institution, or to*** a state, county, city, or federal peace officer or probation and parole officer by means of a deadly weapon or a dangerous instrument.

(2) Assault in the third degree is a Class D felony.

Section 2. KRS 508.030 is amended to read as follows:

(1) A person is guilty of assault in the fourth degree when:

(a) He intentionally or wantonly causes physical injury to another person; or

(b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the fourth degree is a Class A misdemeanor***, unless the person assaulted was an employee of a public or private educational institution engaged at the time in the lawful performance of his educational duties, or the assault was related to the lawful performance of his educational duties, in which case it is a Class D felony***.

**HB 715,** AN ACT relating to education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established a network of regional training centers for preschool and early childhood education as specified in the 1987 state plan for Public Law 99-457. The purpose of the regional training centers shall be to provide peer to peer training, consultation, technical assistance and materials to personnel from local school districts and other agencies operating programs for handicapped and at risk preschool children.***

***(2) The regional training centers shall receive federal funds from Public Law 99-457 and may receive state appropriations, gifts and grants.***

***(3) The State Board for Elementary and Secondary Education shall promulgate such regulations as may be needed in the administration of the regional training centers. In administering this Act, the Department of Education shall consult with the regional training centers and the districts and agencies served by this program.***

**HB 898,** AN ACT relating to education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 156.160 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall adopt ***administrative*** [~~rules and~~] regulations relating to:

(a) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(b) Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(c) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(d) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the state board shall adopt the Uniform State Building Code;

(e) Medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. ***Such regulations shall permit a student who received a physical examination in the Head Start program, no more than six (6) months prior to his initial admission to the public schools to substitute that physical examination for the physical examination required by the Department of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Department of Education***;

(f) The transportation of children to and from school;

(g) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(h) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(i) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;

(j) The disposal of real and personal property owned by local boards of education.

(2) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

The Committee Amendment No. 1 to **HB 898** is as follows:

Amend printed copy of **HB 898** on page 2, line 9 by deleting "***Department of***" and inserting "***State Board for Elementary and Secondary***" in lieu thereof;

On page 2, line 13 by deleting "***Department of***" and inserting "***State Board for Elementary and Secondary***" in lieu thereof.

**SB 86,** AN ACT relating to higher education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The council shall*** [~~to~~] be composed of the Superintendent of Public Instruction, and seventeen (17) lay members appointed by the Governor, one (1) from each congressional district, ***ten (10)*** [~~eight (8)~~] from the state at large which shall include a student member, who shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be elected annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the Governor one (1) nominee; from this list of nominees, the governor shall appoint a student member[~~, one (1) from a list of two (2) nominated by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives~~]. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. ***When*** [~~Whenever~~] a lay member's term expires after ***the effective date of this Act*** [~~July 15, 1982~~], the member appointed by the Governor to fill the vacancy shall be appointed for a ***six (6)*** [~~four (4)~~] year term [~~in the same manner as the initial appointment~~]. Any person, other than the Superintendent of Public Instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees ***appointed for a term***

***of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist*** [~~consisting~~] of sixteen (16) competent citizens of Kentucky appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The ***initial*** terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. [~~Four (4) of the sixteen (16) appointed members shall be appointed each year.~~] Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments ***except that the appointments shall be for terms of six (6) years.***

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 3. KRS 164.320 is amended to read as follows:

(1) [~~The board of regents for~~] Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each ***be governed by a board of regents appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. Each board shall*** consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The ***initial*** terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. ***When a term expires after the effective date of this Act, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. The*** [~~Such~~] appointments shall be made by the Governor within thirty (30) days after the expiration of the term of each member. If the Governor ***fails*** [~~should fail~~] to make ***the*** [~~any such~~] appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make ***the*** [~~such~~] appointment within sixty (60) days after the expiration of ***the*** [~~such~~] term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of ***the*** [~~such~~] board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 4. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist*** [~~consisting~~] of seventeen (17) competent citizens of Kentucky appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in ***the*** [~~such~~] manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) ***After the effective date of this Act*** at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of ***six (6)*** [~~four (4)~~] years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements, the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

Section 5. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University [~~and~~] Murray State University***, Kentucky State University, and Northern Kentucky University*** may not be removed except for cause.

Section 6. KRS 164.600 is amended to read as follows:

(1) There shall be a local advisory board for each community college, except as provided in KRS 165.160. Each local advisory board shall serve in an advisory capacity to the board and the head of the community college on the operation of the community college.

(2) Each local advisory board shall consist of nine (9) members, seven (7) of whom shall be appointed by the governor. The other two (2) local advisory board members shall be one (1) nonvoting member of the teaching faculty and one nonvoting member of the student body. ***After the effective date of this Act,*** an appointed member's term is ***six (6)*** [~~four (4)~~] years; however, when appointing the initial members of the local advisory boards, the governor may appoint some members for terms of less than four (4) years.

(3) The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the local advisory boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(5) Local advisory board members shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

The House Committee Substitute to **SB 86** is as follows:

**SB 86,** AN ACT relating to higher education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section' 1. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The council shall*** [~~to~~] be composed of the Superintendent of Public Instruction[~~,~~] and seventeen (17) lay members appointed by the Governor. ***The lay members shall include***[~~,~~] one (1) from each congressional district ***and ten (10)***[~~, eight (8)~~] from the state at large ***including*** [~~which shall include~~] a student member. ***The student member***[~~, who~~] shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be ***selected*** [~~elected~~] annually in the following manner: not later than July 1 of each year the president of the student body of each four-year state public institution of higher education shall submit to the Governor one (1) nominee***, and***[~~;~~] from this list of nominees, the Governor shall appoint a student member[~~, one (1) from a list of two (2) nominated~~

~~by the president pro tem of the senate, and one (1) from a list of two (2) nominated by the speaker of the house of representatives~~]. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years and four (4) members for four (4) years. ***When*** [~~Whenever~~] a lay member's term expires after ***January 1, 1992*** [~~July 15, 1982~~], the member appointed by the Governor to fill the vacancy shall be appointed for a ***six (6)*** [~~four (4)~~] year term in the same manner as the initial appointment. Any person, other than the Superintendent of Public Instruction, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky association of colleges, secondary and elementary schools, shall be invited to meet with the council in an advisory capacity.

Section 2. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires additional representation on any such "single state agency" the Council on Higher Education shall establish such advisory groups as may be necessary to satisfy such federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of such formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the Advisory Conference of Presidents. Nothing in this chapter shall prevent or prohibit the Governor, the legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet [~~and/~~]or State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640 subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

***(13) Develop in cooperation with each state institution of higher education a comprehensive orientation program for newly appointed governing board trustees and regents. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission, budget, plans, policies, strengths, and weaknesses. The orientation program shall also include meetings of the newly appointed trustees and regents for each institution with its faculty, students, administrators, and other board members.***

Section 3. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees ***appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist*** [~~consisting~~] of sixteen (16) competent citizens of Kentucky appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The ***initial*** terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. ***When a term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be for a six (6) year term.*** [~~Four (4) of the sixteen (16) appointed members shall be appointed each year.~~] Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies ***created by death, resignation, or removal from office*** shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 4. KRS 164.320 is amended to read as follows:

(1) [~~The board of regents for~~] Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each ***be governed by a board of regents appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. Each board shall*** consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The ***initial*** terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. ***When a term expires after January 1, 1992, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. The*** [~~Such~~] appointments shall be made by the Governor within thirty (30) days after the expiration of the term of each member. If the Governor ***fails*** [~~should fail~~] to make ***the*** [~~any such~~] appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make ***the*** [~~such~~] appointment within sixty (60) days after the expiration of ***the*** [~~such~~] term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for

a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of ***the*** [~~such~~] board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 5. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of seventeen (17) competent citizens of Kentucky appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date, or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in ***the*** [~~such~~] manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) ***After January 1, 1992*** at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of ***six (6)*** [~~four (4)~~] years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements, the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established the Governor's Higher Education Selection Committee which shall consist***

***of seven (7) members representing each of the Supreme Court districts appointed by the Governor with the consent of the House of Representatives and the Senate. In the event the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.***

***(2) In selecting the members of the committee the Governor shall solicit recommendations from each of the following:***

***(a) Advisory Conference of Presidents;***

***(b) Council on Higher Education Student Advisory Council;***

***(c) Associations representing faculty from universities and community colleges;***

***(d) Associations representing university and community college alumni;***

***(e) Higher education advocacy groups;***

***(f) The State Board of Education; and***

***(g) Associations representing business and civil interests.***

***(3) Members of the committee shall serve six (6) year terms, except the initial appointments shall be as follows:***

***(a) One (1) member shall serve a three (3) year term;***

***(b) Two (2) members shall serve a four (4) year term;***

***(c) Two (2) members shall serve a five (5) year term; and***

***(d) Two (2) members shall serve a six (6) year term.***

***The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.***

***(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.***

***(5) Beginning January 1, 1991 the committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.130, 164.320, and 164.820 and to the Council on Higher Education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments made pursuant to KRS 164.820. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within thirty (30) days following receipt of the nominations.***

***(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as it deems necessary.***

***(7) The Governor's office staff shall provide support services for the committee.***

Section 7. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University [~~and~~] Murray State University***, Kentucky State University, and Northern Kentucky University*** may not be removed except for cause.

Section 8. KRS 164.600 is amended to read as follows:

(1) There shall be a local advisory board for each community college, except as provided in KRS 165.160.

Each local advisory board shall serve in an advisory capacity to the board and the head of the community college on the operation of the community college.

(2) Each local advisory board shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2) local advisory board members shall be one (1) nonvoting member of the teaching faculty and one nonvoting member of the student body. ***After January 1, 1992,*** an appointed member's term ***shall be six (6)*** [~~is four (4)~~] years; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years.

(3) The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the local advisory boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(5) Local advisory board members shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

SB 207, AN ACT relating to education.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 158.160 is amended to read as follows:

If any ***student is known or suspected to have or be infected with a communicable disease or condition for which a reasonable probability for transmission exists in a school setting, the superintendent of the district may order the student excluded from school. The time period the student is excluded from school shall be in accordance with generally accepted medical standards which the superintendent shall obtain from consultation with the student's physician or the local health officer for the county in which the school district is located*** [~~family has an infectious or communicable disease, no member of the family shall attend any school until the superintendent of the district, upon the advice of the health officer of the county in which the school district is located, allows them to do so~~]. During the ***presence*** [~~prevalence~~] in any district of dangerous epidemics, the board of education of the school district may order the school closed.

SB 215, AN ACT relating to eligibility for school board candidacy and membership.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 160.180 is amended to read as follows:

(1) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the eighth grade in the common schools as shown by the records of the school in which the eighth-grade was completed or by affidavits of the teacher or teachers under whom the work was completed, or unless he has the equivalent of an eighth-grade education as determined by an examination held under rules and regulations adopted by the State Board for Elementary and Secondary Education. Only those board members serving July 1, 1984, and who continue to serve without a break in service shall be eligible with an eighth-grade education. All other members elected after July 1, 1984, shall have completed at least the twelfth grade or unless they have completed the equivalent of a twelfth-grade education as determined by an examination held under [~~rules and~~] regulations adopted by the State Board for Elementary and Secondary Education; ***and*** [~~or~~]

(d) ***An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the State Board for Elementary and Secondary Education has been filed with the nominating petition required by KRS 118.315; or***

***(e)*** Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or

***(f)***[~~(e)~~] Who holds or discharges the duties of any civil or political office, deputyship or agency under the city or county of his residence; or

***(g)***[~~(f)~~] Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery or any other property, materials, supplies, equipment or services for which school funds are expended; or

***(h)***[~~(g)~~] Who has been removed from membership on a board of education for cause.

(2) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph ***(g)***[~~(f)~~] of subsection (1) of this section, or becomes a candidate for nomination or election to any office or agency the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he moves his residence from the district for which he was chosen, or if he does anything that would render him ineligible for re-election, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

(3) A board member shall be eligible for re-election unless he becomes disqualified.

(4) No member of a board of education shall cast a vote regarding the appointment or employment in any capacity of any person related to him as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law or first cousin, except when the majority vote of the remainder of the board is in the affirmative regarding the appointment or employment of such person.

(5) All local school board members shall complete at least fifteen (15) hours of in-service training through December 31, 1986.

(6) Effective January 1, 1987, and thereafter, the annual in-service requirements for all school board members shall be as follows:

(a) Twelve (12) hours' training for school board members with zero to three (3) years of experience;

(b) Eight (8) hours' training for school board members with four (4) to seven (7) years of experience; and

(c) Four (4) hours' training for school board members with eight (8) or more years of experience.

The State Board ***of*** [~~for Elementary and Secondary~~] Education shall identify the criteria for fulfilling this requirement.

The Committee on Transportation reported **HB 51**, **HB 474**, **HB 549**, **HB 630**, **HB 635**, **HB 659**, **HB 678** with Committee Substitute attached thereto, **HB 696**, **HB 707** with Committee Amendment attached thereto, **HB 723** with Committee Amendment attached thereto, **HB 724**, **HB 780**, **SB 34**, **SB 81** and **SB 237** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 51**, AN ACT relating to motor vehicle registration.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186.172 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any volunteer member of a volunteer fire department or fire protection district in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Volunteer Fire Fighter," a registration number and an appropriate standardized insignia. Each ***initial or renewal*** application shall be accompanied by proof of current service as a volunteer fire fighter as furnished by the mayor or trustee in such a city or the county judge/executive in appropriate rural areas, and the payment of a fee of ***eleven dollars fifty cents ($11.50)*** [~~twenty-five dollars ($25)~~]. ***The transportation cabinet shall provide the clerk with a renewal decal to be issued to applicants seeking renewal of a volunteer fire fighter license plate in the event a new registration plate is not issued for the current registration year. The renewal decal shall be affixed to the registration plate by the owner*** [~~Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service as a volunteer fire fighter, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the volunteer fire fighter license plate originally issued to the applicant~~].

(2) Upon the sale, transfer or termination of lease of a vehicle licensed as authorized by subsection (1) of this section, the owner or lessee shall remove the volunteer fire fighter license plate and return it and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the transportation cabinet for use on any other vehicle of the same class and category owned or leased by the same applicant to whom the volunteer fire fighter license plate was originally issued.

(3) Upon termination of membership as a volunteer fire fighter, an applicant to whom a volunteer fire fighter license plate was issued under this section, shall, within thirty (30) days, return the volunteer fire fighter plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the volunteer fire fighter license plates, in annually issuing a current year renewal decal to be affixed to the volunteer fire fighter license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). A one dollar ($1) fee shall be charged for the reissuance of such license plate after the sale, transfer or termination of lease of the vehicle for which it was originally issued.

(5) Any applicant seeking to obtain a license plate according to this section, for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(6) The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purpose of this section.

**HB 474,** AN ACT relating to motor vehicle license plates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

***(1) Upon application to the county clerk of the county of his residence, any member of the national Fraternal Order of Police shall be issued a five (5) year license plate in the same form and character as license plates issued to vehicles registered pursuant to KRS 186.050(1) and (3)(a), except that the license plate shall bear the inscription "Fraternal Order of Police," a registration number and an appropriate standardized insignia. Each application shall be accompanied by a current membership card issued by the Fraternal Order of Police, an eleven dollar fifty cent ($11.50) state fee, a two dollar ($2.00) clerk's fee and an additional twenty-five dollar ($25.00) fee. Annually thereafter, upon application to the county clerk, together with proof of current membership with the Fraternal Order of Police, and payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the Fraternal Order of Police license plate.***

***(2) Upon sale, transfer or termination of lease of a vehicle licensed according to subsection (1) of this section, the owner shall remove the Fraternal Order of Police license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of the appropriate state and local fees. When the plate has been presented to the clerk, he shall reissue it free from payment to the Transportation Cabinet for use on any other vehicle of the same class and category owned or leased by the same applicant to whom the Fraternal Order of Police license plate was originally issued.***

***(3) Upon termination of membership with the Fraternal Order of Police, an applicant to whom a Fraternal Order of Police license plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.***

***(4) Any applicant seeking to obtain a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements in KRS 186.050(14).***

***(5) If the Fraternal Order of Police license plate deteriorates to the point where inscriptions thereon are not discernable, the owner or lessee may obtain a replacement plate free of charge.***

***(6) The secretary of transportation may promulgate administrative regulations governing the procedure by which the Fraternal Order of Police license plate is issued.***

**HB 549,** AN ACT relating to motor vehicle registration.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

***(1) Upon application to the county clerk of the county of residence, a person who has retired from a branch of the United States Armed Forces with at least twenty (20) years of service shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate shall be issued only for vehicles registered pursuant to KRS 186.050(1) and (3)(a).***

***(2) The plate shall bear the name "United States Armed Forces" and shall be designed by the Transportation Cabinet. Each retired member of the armed forces may receive one (1) such registration annually and it shall be for a vehicle which he owns, leases or drives pursuant to an occupation.***

***(3) Each application shall be accompanied by proof of previous service in a branch of the United States Armed Forces and payment of an eleven dollar and fifty cents ($11.50) state fee, a two dollar ($2.00) clerk's fee and an additional twenty-five dollar ($25) fee. Annually, thereafter, upon application to the clerk, together with proof of previous service of twenty-five (25) years or more in a branch of the United States Armed Forces and payment of an eleven dollar and fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee, the clerk shall issue a replacement decal.***

***(4) Upon sale or transfer of a vehicle licensed according to this section, the owner shall remove the plate issued by this Act and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular plate and certificate of title and registration upon payment of an eleven dollar and fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee.***

***(5) In the event a "United States Armed Forces" plate, within five (5) years of the date of issuance, deteriorates to the point where inscriptions thereon are not discernable, the owner or lessee may obtain a replacement plate free of charge.***

***(6) The secretary of the Transportation Cabinet may promulgate regulations regarding the issuance of this registration plate.***

**HB 630,** AN ACT relating to motor carriers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

***(1) The tax imposed under KRS 138.220 shall not apply to thirty percent (30%) of all gasoline which is dispensed into the fuel supply tank of a ready-mix concrete truck which has a common fuel reservoir for both locomotion on the public highways and the operation of the concrete mixing equipment.***

***(2) A person is entitled to a refund of the tax imposed under KRS 138.220 on that portion of gasoline as specified in subsection (1) of this section, for all gasoline dispensed into the fuel supply tank of a motor vehicle described in subsection (1) of this section, if the person is the purchaser of the gasoline and has paid the tax thereon in full.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

***(1) The tax imposed under KRS 138.220(1) shall not apply to thirty percent (30%) of all special fuels which are withdrawn from a licensed special fuels dealer's storage facility, or delivered into storage facilities of consumers or persons engaged in the business of selling special fuels, and dispensed into the fuel supply tank of a ready-mix concrete truck which has a common fuel reservoir for both locomotion on the public highways and the operation of the concrete mixing equipment.***

***(2) A person is entitled to a refund of the tax imposed under KRS 138.220(1) on that portion of special fuels as specified in subsection (1) of this section, for all special fuels dispensed into the fuel supply tank of a motor vehicle described in subsection (1) of this section, if the person is the purchaser of the special fuels and has paid the tax thereon in full.***

Section 3. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the Revenue Cabinet reports on such forms as the cabinet may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

(a) Gasoline sold to the United States government in single deliveries of not less than two thousand (2,000) gallons each;

(b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment and point of delivery;

(c) Gasoline and special fuels lost through accountable losses; [~~and~~]

(d) Gasoline and special fuel exported or sold for export from this state to any other state in transport truck, tank car or cargo lots***; and***

***(e) Gasoline dispensed into the fuel supply tank of a motor vehicle described in subsection (1) of Section 1 of this Act.***

Section 4. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240***, and the total number of gallons of gasoline exempted under subsection (1) of Section 1 of this Act, during the next preceding calendar month.***

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts and handling and reporting the tax, each dealer shall be allowed compensation equal to two and one-fourth percent (2 1/4%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358; provided, however, no compensation shall be allowed if the completed tax return and payment are not submitted to the Revenue Cabinet within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the cabinet, by the twenty-fifth day of each month, an amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the previous month, shall not be required to file the monthly reports required by this chapter until the last day of that month, and shall be permitted to claim as a credit against the tax liability shown due on such report the amount previously paid for such month.

**HB 635**, AN ACT relating to law enforcement telecommunicators.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 15.530 is amended to read as follows:

For the purposes of KRS 15.540 to 15.590, "law enforcement telecommunicator" means any full-time employee, sworn or civilian, ***whose primary responsibility is*** [~~who is employed~~] to dispatch law enforcement units by means of radio communications ***for an agency*** [~~or to operate teleprocessing equipment associated with law information network of Kentucky,~~] which is part of or administered by the state or any political subdivision.

**HB 659**, AN ACT relating to trailer registration.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186.675 is amended to read as follows:

(1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (1) shall be four dollars and fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (3) through (13) shall be nineteen dollars and fifty cents ($19.50). The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers ***being drawn by a vehicle registered pursuant to KRS 186.050(4)(a) or (b) and*** used for the transportation of [~~boats, luggage, personal effects,~~] farm products, farm supplies or farm equipment. The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents ($9.50) except the registration fee ***shall be four dollars and fifty cents ($4.50) for the following trailers which are drawn by vehicles registered pursuant to KRS 186.050(1) or (3)(a):*** [~~for~~] camping trailers, travel trailers, [~~and~~] truck campers ***and utility trailers used to haul boats, luggage or personal effects*** [~~shall be four dollars and fifty cents ($4.50)~~]. The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar ($1.00).

(2) Beginning April 1, 1983, at the request of the carrier, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) through (13) may be registered for a five (5) year period. The registration fee for the period shall be ninety-seven dollars and fifty cents ($97.50). The department shall prorate the fee as provided in this subsection for trailers and semitrailers which request a five (5) year registration after the registration period has begun. The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of two dollars and fifty cents ($2.50).

**HB 678,** AN ACT relating to motor carriers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

***(1) The Department of Vehicle Regulation shall issue an overdimension permit on a per trip basis for the transportation of mobile homes with a width between fourteen (14) and sixteen (16) feet inclusive. The fee for the permit shall be the fee prescribed by KRS 189.270(1).***

***(2) Transportation of mobile homes as authorized by subsection (1) of this section shall be limited to weekdays between the hours of 9:00 a.m. and 3:00 p.m. Transportation of mobile homes shall not be permitted on any highway regardless of the terms of the permit if wind velocity exceeds twenty five (25) miles per hour or when adverse weather conditions prohibit such move or when the pavement is wet. The Department of Highways shall inform any permit holder when circumstances exist which preclude the transportation of mobile homes under the provisions of this subsection. There shall be credit given to any permit holder if conditions prohibit the movement of a mobile home on the day for which a permit is issued.***

***(3) The movement of mobile homes pursuant to this section shall require two (2) escort vehicle for each movement. An escort vehicle shall in both front and rear of the vehicle transporting the mobile home, and each escort vehicle shall be equipped with red flags twelve (12) by twelve (12) inches square and displayed on both sides of the front bumper of the lead escort and on both sides of the rear of a following escort vehicle. Amber flashing lights may be required on both the escort vehicles and the towing vehicle.***

***(4) The Transportation Cabinet may promulgate administrative regulations for the issuance of permits for transportation of mobile homes pursuant to this section.***

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, [~~or~~] 189.271, ***or Section 1 of this Act*** shall be fined two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds

two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(2) shall be fined fifty dollars ($50).

(25) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(26) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

The Committee Substitute to **HB 678** is as follows:

**HB 678,** AN ACT relating to motor carriers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles and vehicles transporting

microwave satellite television antennae, vehicles transporting boats or farm equipment, whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay in addition to a fee of sixty dollars ($60) for each overweight permit a fee of: forty dollars ($40) for any vehicle with six (6) axles; fifty dollars ($50) for any vehicle with seven (7) axles; sixty dollars ($60) for any vehicle with eight (8) axles; seventy dollars ($70) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60), and in addition, a fee of thirty dollars ($30) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet; twenty dollars ($20) for each single trip house trailer permit ***if the house trailer is fourteen (14) feet wide or less; forty dollars ($40) for each single trip house trailer permit if the house trailer exceeds fourteen (14) feet in width***; a fee of eighty dollars ($80) for each annual house trailer, farm equipment, boat transporter or microwave antennae transporter permit; a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedance of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the department of vehicle regulation, division of motor carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit said trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.

(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).

(4) No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit.

**HB 696**, AN ACT relating to motor carriers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

***(1) The department shall establish a motor carrier safety management audit program applicable to private or for-hire, intrastate or interstate motor carriers. The department may perform safety inspections on vehicles operated by a motor carrier on public highways and may enter onto property owned, leased, controlled or operated by a motor carrier to inspect any of its vehicles or inspect or copy records relating to vehicle safety, maintenance or financial responsibility.***

***(2) The department may issue motor carrier safety ratings to any private or for-hire motor carrier which is based in Kentucky, has a terminal in Kentucky or operates consistently in Kentucky. The safety rating scale and factors determining a carrier's safety rating shall be established by administrative regulation and shall be compatible with the scale and factors established by the federal highway administration in Title 49 of the United States Code of Federal Regulations, Part 385, relating to safety ratings, in effect as of July 13, 1990, or as amended after that date.***

***(3) The department may determine the safety fitness of a motor carrier and may require the maintenance of or upgrade to a satisfactory safety rating.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

***The department shall by administrative regulation establish a system of administrative penalties for safety violations. These penalties shall be compatible with those set forth in United States Code Title 49, Section 521(b) as amended and any federal regulations adopted pursuant thereto. The department shall by administrative regulation provide an administrative process for appealing a citation of a safety violation or the penalty imposed because of the violation.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

***The Transportation Cabinet may enter into a cooperative agreement with the Federal Highway Administration to enforce the safety laws and regulations of Kentucky and the United States concerning motor carrier transportation.***

Section 4. KRS 281.655 is amended to read as follows:

(1) Before any certificate or permit will be issued or renewed, the applicant or holder of the certificate or permit ***shall***[~~must~~] file or ***shall*** have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. The bond or policy shall have attached thereto the state insurance indorsement. All bonds or policies required herein ***shall*** [~~must~~] be issued in the name of the holder of the certificate or permit. In lieu of the bond or policy, the department, under appropriate [~~rules and~~] regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(2) The bond or policy required of a U-Drive-It or automobile utility trailer lessor shall provide public liability and property damage coverage when operated either by the lessee or lessor thereof or agents, servants or employees of either.

(3) All bonds or policies shall provide blanket coverage for all equipment operated pursuant to the certificate or permit.

(4) Effective January 1, 1957, the types and minimum amounts of insurance to be carried on each vehicle are as follows:

MOTOR VEHICLES FOR THE TRANSPORTATION OF PERSONS, INCLUDING U-DRIVE-ITS

| Capacity | Death of or Injury to Any One Person | Total Liability for Death of or Injury to Persons | Property Damage |
|---|---|---|---|
| 7 persons or less | $10,000.00 | $20,000.00 | $5,000.00 |
| 8 to 16 inclusive | 10,000.00 | 30,000.00 | 5,000.00 |
| 17 to 25 inclusive | 10,000.00 | 40,000.00 | 5,000.00 |
| 26 or more | 10,000.00 | 50,000.00 | 5,000.00 |

MOTOR VEHICLES FOR THE TRANSPORTATION OF PROPERTY, INCLUDING U-DRIVE-ITS AND AUTOMOBILE UTILITY TRAILERS

| Gross Weight | Death of or Injury to Any One Person | Total Liability for Death of or Injury to Persons | Property Damage |
|---|---|---|---|
| 18,000 lbs. or less | $ 10,000.00 | $ 20,000.00 | $ 5,000.00 |
| More than 18,000 lbs. | 100,000.00 | 300,000.00 | 50,000.00 |

(5) Any person, firm or corporation operating or causing to be operated any vehicle for the transportation of petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds shall have the following types and minimum amount of insurance carried on each vehicle:

| Total Death of or Injury to Any One Person | Liability for Death of or Injury to Persons | Property Damage |
|---|---|---|
| $100,000.00 | $300,000.00 | $50,000.00 |

(6) Any person, firm or corporation operating or causing to be operated any vehicle for the transportation of hazardous material as defined in KRS 174.405, except petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds, shall have on each vehicle single limits liability insurance coverage of not less than one million dollars ($1,000,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence.

(7) Before any Kentucky intrastate certificate exclusively authorizing the transportation of property, except an irregular route common carrier certificate exclusively authorizing the transportation of Kentucky exempted commodities, shall be issued or renewed, the applicant or holder of the certificate ***shall*** [~~must~~] file or have on file with the department an approved insurance policy or bond compensating shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into possession of the carrier in connection with its transportation service:

(a) For loss of or damage to property carried on any one motor vehicle in the amount of five thousand dollars ($5,000);

(b) For loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place in the amount of ten thousand dollars ($10,000).

Said policy or bond shall have attached thereto the Kentucky cargo policy indorsement and ***shall*** [~~must~~] be issued by some insurance or surety company authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(8) The department may by regulation require motor carriers for hire operating exclusively interstate commerce to file proof of cargo insurance coverage in such form and in such amounts as the commissioner deems advisable.

(9) No insurance company or insurance carrier issuing any policy filed with the department, and no surety or obligor on any bond or contract filed with the department, shall be relieved from liability under the policy, bond or contract until after the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract, provided, however, that a prior cancellation may be allowed in cases where one policy, bond or contract is substituted for another policy, bond or contract where such substituted policy, bond or contract is of force and effect at a point in time prior to the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract for which such additional policy, bond or contract is being substituted. The acceptance of any notice of an intention to cancel any policy, bond or contract or the cancellation of any policy, bond or contract by the department, unless under the circumstances hereinbefore set forth, shall not relieve the insurance company, insurance carrier, surety or obligor of any liability that accrued prior to the effective date of the cancellation.

(10) Upon the cancellation of any bond or insurance policy required by this section, all operating rights granted by the certificate or permit for which said bond or policy was filed, shall immediately cease, and the department is empowered to immediately require the cessation of all operations conducted under authority of said certificate or permit, and to require the surrender of all certificates, permits, licenses and other evidence of a right to act as a motor carrier.

(11) The department may exempt in whole or in part from the requirements of this section any person who applies for such exemption and shows to the satisfaction of the department that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he may become liable as a result of the operation of any vehicle owned by him or operated under authority of his certificate or permit.

***(12) The provisions of this section notwithstanding, the Secretary of Transportation may adopt, incorporate by reference or set forth in its entirety the provisions of Title 49, United States Code of Federal Regulations, Part 387, relating to the levels of financial responsibility for motor carriers, in effect as of July 13, 1990, or as amended after that date, with respect to any motor carrier operating in Kentucky.***

**HB 707,** AN ACT relating to motor carriers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may prescribe, by ***administrative*** [~~orders of general application, rules and~~] regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles and vehicles transporting microwave satellite television antennae, vehicles transporting boats or farm equipment, whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay in addition to a fee of sixty dollars ($60) for each overweight permit a fee of: forty dollars ($40) for any vehicle with six (6) axles; fifty dollars ($50) for any vehicle with seven (7) axles; sixty dollars ($60) for any vehicle with eight (8) axles; seventy dollars ($70) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60), and in addition, a fee of thirty dollars ($30) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet; twenty dollars ($20) for each single trip house trailer permit; a fee of eighty dollars ($80) for each annual house trailer, farm equipment, boat transporter or microwave antennae transporter permit; a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedance of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the Department of Vehicle Regulation, division of motor carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit said trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.

(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).

(4) ***Each motor carrier used in transporting prefabricated wood trusses, used in residential and commercial construction, which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit. The Department of Vehicle Regulation shall assess the applicant a fee of five hundred dollars ($500) for each annual permit. A copy of the permit shall be carried at all times in the vehicle and shall be shown to a peace officer upon demand.***

***(5)*** No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit.

The Committee Amendment No. 1 to **HB 707** is as follows:

Amend printed copy of **HB 707** on page 4, line 13, after the "." by inserting the following language: "***The department may restrict the use of the permits to specified routes or exclude certain highways from***

***the annual permit in this subsection if an unreasonable risk of accident or impedance of the flow of traffic could result. The department shall adopt administrative regulations setting forth the safety requirements which shall be met prior to the movement of any vehicle under the provisions of this permit including setting the dimensions at which the transporter shall contact the department for specific, individual authority for the movement under the annual permit."***

**HB 723,** AN ACT relating to boat titling and registration.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186A.015 is amended to read as follows:

(1) The titling and registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The Transportation Cabinet, the Natural Resources and Environmental Protection Cabinet, the Revenue Cabinet, and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

***(3) The Transportation Cabinet, as far as practicable, and not inconsistent with the provisions of KRS Chapter 235 shall promulgate administrative regulations requiring the procedures for boat titling and registration to be consistent with motor vehicle titling and registration. These administrative regulations may pertain but shall not be limited to the following:***

***(a) Conditions and characteristics of certificate of title forms;***

***(b) Comparison and identification of hull identification numbers;***

***(c) Application for title or registration;***

***(d) Processing of title applications;***

***(e) Form of certificate of title;***

***(f) Notation of security interests or title;***

***(g) Title lien statements;***

***(h) Transfer of boat ownership;***

***(i) Duplicate certificate of title or registration; and***

***(j) Salvage titles.***

Section 2. KRS 235.030 is amended to read as follows:

This chapter shall be known as the state boating act and shall be administered by the Division of Water Patrol within the Natural Resources and Environmental Protection Cabinet ***except the Transportation Cabinet shall be responsible for administering the boat numbering, registration, and titling requirements.***

Section 3. KRS 235.065 is amended to read as follows:

All motorboat registrations required to be renewed annually may be placed in a system of registration renewal which would distribute the workload more evenly. This system to be selected by the ***Transportation*** Cabinet in consultation with ***the*** county clerks may be by the birth month of the owner of record or ***any*** [~~such~~] other system that would take into account the seasonal nature of motorboats.

Section 4. KRS 235.066 is amended to read as follows:

At least thirty (30) days prior to the expiration of registration of any motorboat previously registered in the Commonwealth as provided by KRS 235.070, the owner of the motorboat shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration. In addition, the ***Transportation*** Cabinet shall provide appropriate forms and information to permit renewal of motorboat registration to be completed by mail. Any registration renewal by mail shall require payment of an additional one dollar ($1.00) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

Section 5. KRS 235.070 is amended to read as follows:

(1) Every person seeking a title and registration or renewal registration for operation of a motorboat shall apply [~~in person~~] to the county clerk of the county as provided in KRS 235.050 and make application on a form furnished by the ***Transportation*** Cabinet [~~and if previously registered in Kentucky, submit the owner's registration certificate~~]. The application shall contain the full name and signature, social security number or federal tax identification number, citizenship of applicant, date of birth, sex, present resident address, situs for ad valorem tax assessment, the make of the boat, hull identification number (HIN), if any, length, beam, model and horsepower of motor, maximum capacity, type of hull material, intended use of the boat, and whether the fuel is gasoline, diesel or other. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of ***the*** [~~such~~] facilities and shall state whether the storage container or treatment or disposal system for ***those*** [~~such~~] facilities is a type approved by regulations promulgated pursuant to this chapter. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, or refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) ***Every applicant shall submit the motorboat title or registration with the application as required below:***

***(a) If the motorboat is titled in Kentucky, the applicant shall submit the title with the application for title and registration;***

***(b) If the motorboat is registered in Kentucky but has not been titled in Kentucky, the applicant shall submit the certificate of registration with the application for title and registration;***

***(c) If the applicant is applying for a registration renewal, he shall submit the certificate of registration;***

***(d) If the motorboat is titled in another jurisdiction, the applicant shall submit the title with the application for title and registration; and***

***(e) If the motorboat is registered in another jurisdiction, but not titled in any jurisdiction, the applicant shall submit the certificate of registration with the application for title and registration.***

***(3)*** Every applicant shall make oath as to the truthfulness of the statements contained in the form.

***(4)***[~~(3)~~] The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a current certificate of registration or renewal thereof.

***(5)***[~~(4)~~] No certificate of registration or renewal thereof for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to this chapter.

Section 6. KRS 235.080 is amended to read as follows:

(1) The annual registration fee for motorboats shall be based upon the following:

| | |
|---|---|
| 1 foot through 15 feet 11 inches | $10.00 |
| 16 feet through 25 feet 11 inches | 14.00 |
| 26 feet through 39 feet 11 inches | 20.00 |
| 40 feet and over | 24.00 |
| All inboards and inboard/outboards | 24.00 |

Every application ***for registration or renewal of registration*** shall be accompanied by the registration fee above set out ***in addition to a one dollar ($1.00) fee which shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program***.

(2) The annual registration fee for motorboats for hire from a livery shall be the registration fees set forth in subsection (1) of this section. Owners of a livery shall apply for licenses or certificates in the manner provided in this chapter, but the ***Transportation*** Cabinet may promulgate special ***administrative*** [~~rules and~~] regulations relating to their certification and registration.

Section 7. KRS 235.085 is amended to read as follows:

***(1)*** The county clerk shall be entitled to the same fee for the performance of the duties required in the issuance of certificates of title and registration for motorboats as is applicable to the issuance of certificates of title and registration of motor vehicles as provided by KRS 186.040, [~~and~~] 186A.130***, 186.180, and 186A.245***.

***(2) The Transportation Cabinet shall be entitled to the same fee for the performance of duties required in the issuance of certificates of title or duplicate titles for motorboats as is applicable to the issuance of certificates of title of motor vehicles as provided in KRS 186A.130 and 186A.245. The Transportation Cabinet shall receive a two dollar ($2.00) fee when a motorboat owner is issued a replacement license decal for the operation of a motorboat. The fees shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing, administering and operating the boat titling and registration program.***

Section 8. KRS 235.090 is amended to read as follows:

***(1) The*** [~~On Monday of each week, the~~] county clerk shall ***enter information relating to the registration and titling of boats into the automated vehicle information system. This information*** [~~make a written report to the department which~~] shall include the name and address of those persons who have applied for title and registration of motorboats, the length and type of the motorboat, and the title and registration fee charged and the amount of title and registration fee collected from the applicant. [~~This report shall cover the period of the calendar week preceding the report.~~] The applications for title and registration and the fees collected by the clerk shall be forwarded [~~with the report~~] to the ***Transportation*** Cabinet.

***(2) The county clerk shall submit a weekly report of all transactions involving boat titling and registration transactions to the Transportation Cabinet.***

Section 9. KRS 235.100 is amended to read as follows:

***After the county clerk has entered the information into the automated vehicle information system as required by KRS 235.090, the Transportation Cabinet*** [~~Upon receipt of the clerk's report and copies of the applications, the department shall cause each of said applications to be entered upon the records of its office and~~] shall issue to the applicant a certificate of number stating the number awarded to the motorboat, the name and address of the owner, and any other information prescribed by the department.

Section 10. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of title issued for that boat with a certificate of transfer indorsed thereon. ***If the motorboat has not been issued a certificate of title as noted on the certificate of registration, the person shall receive a completed assignment of title on a boat transaction record and the certificate of registration.***

(2) It shall be the duty of the purchaser to promptly submit the indorsed certificate of title ***or boat transaction record and certificate of registration*** to the county clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated. The purchaser shall apply for a new certificate of title and registration pursuant to KRS 230.050. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information [~~except for the change in name and address~~]. The clerk shall forward the indorsed certificate of title ***or boat transaction record and certificate of registration*** and new application for title and registration to the ***Transportation*** Cabinet. Except when registration is prohibited by law, any unexpired registration shall remain valid after transfer until expiration occurs according to law.

(3) For transferring the [~~title and~~] registration, the clerk shall collect a fee of ***five*** [~~three~~] dollars ***($5)*** [~~($3)~~]. The clerk shall retain two dollars ($2)***, the Transportation Cabinet shall receive two dollars ($2)*** and the ***Natural Resources*** Cabinet shall receive one dollar ($1). ***The fee received by the Transportation Cabinet shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program. The fee for transferring the title shall be as required by KRS 235.085.***

(4) If a transferee does not promptly submit the necessary documents to the county clerk as required by law in order to complete the transfer transaction, a transferor may submit to the county clerk, after the passage of fifteen (15) calendar days, in his county of residence, an affidavit that he has transferred his interest in a specific motorboat and the clerk may enter appropriate data into the AVIS system which would restrict any registration transaction from occurring on that vehicle until the transfer was processed.

(5) If the owner junks or otherwise renders a motorboat unfit for future use, he shall deliver the title to the county clerk of the county in which the motorboat is junked. The county clerk shall immediately return the title to the ***Transportation*** Cabinet. The owner shall pay to the county clerk fifty cents ($.50) for his services.

Section 11. KRS 235.150 is amended to read as follows:

The ***Transportation*** Cabinet or county clerk shall insofar as is practicable assign to each motorboat the number previously assigned thereto upon each subsequent registration or transfer.

Section 12. KRS 235.160 is amended to read as follows:

All registration records of the ***Transportation*** Cabinet made or kept pursuant to the issuance of a certificate of number shall be public records.

Section 13. KRS 235.330 is amended to read as follows:

(1) All moneys collected under the provisions of this chapter ***except that specified for distribution to the county clerks, or Transportation Cabinet*** shall be paid into the state treasury in the manner prescribed by law, and credited to a trust and agency account to be used by the division of water patrol.

(2) Appropriations for the operation of the division of water patrol may also be made from the general expenditure fund.

The Committee Amendment No. 1 to **HB 723** is as follows:

Amend printed copy of **HB 723** on page 11, after line 14, by inserting the following language:

"Section 14. KRS 186A.050 is amended to read as follows:

The certificate of title blanks required by this chapter shall be designed and printed to make difficult and to facilitate detection of counterfeit likenesses or fraudulent alteration of genuine documents. The bid specifications for the acquisition of the certificate of title blanks shall require, as a minimum:

(1) That bidders have a demonstrable reputation in the printing of currency or securities, and guarantee with an appropriate cash bond that, in addition to any other requirements, the document blanks to be supplied are printed in a secure printing facility, [~~by intaglio steel plate printing process, from line engravings,~~] utilizing a combination of the printing process, unique printing plates, paper, and inks to produce high quality documents designed to:

(a) Be readily recognizable as genuine by a layman and by extra visual techniques;

(b) Make extremely difficult the manufacture of counterfeit likenesses by direct engraving, photographic or color xerographic means;

(c) Visually reveal actual or attempted alteration or erasure by chemical or mechanical means.

(2) That bidders guarantee production of a specific number of uniquely numbered documents with guaranteed accounting for spoilage and a guaranteed list of document numbers supplied and those deleted.

(3) That the documents will be shipped to the Commonwealth by an agreed means to assure minimal risk of theft, loss or destruction.

(4) That the plates utilized in printing of the blanks will not be utilized for the printing of certificate of title blanks by other than the bidder pursuant to a lawful contract with the Commonwealth."

**HB 724**, AN ACT relating to limousines.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

***(1) No airport shuttle certificate holder, taxicab certificate holder or U-drive-it certificate holder shall advertise or hold itself out as supplying limousine service unless the motor vehicle in question meets the definition of limousine in KRS 281.014.***

***(2) Nothing in this section shall preclude the holder of an airport shuttle certificate, taxicab certificate or U-drive-it certificate from operating a motor vehicle which meets the definition of a limousine under that certificate.***

Section 2. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) (a) The term "taxicab certificate" ***or "limousine certificate"*** means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of one city and its suburban area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;

(b) A "taxicab" ***means*** [~~is~~] a motor vehicle operated under one or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;

(c) ***A "limousine" means a motor vehicle passenger car which has an extended wheelbase and expanded seating capacity principally designed for the transport of persons. The vehicle shall have additional rear seating capacity, area and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;***

***(d)*** The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;

***(e) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate.***

(2) (a) An "airport ***shuttle*** [~~limousine~~] certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;

(b) An "airport ***shuttle vehicle" means*** [~~limousine" is~~] a motor vehicle operated under one or more airport limousine certificates;

(c) The term "airport ***shuttle vehicle*** [~~limousine~~] license" means a license plate issued for a motor vehicle authorizing its operation under one or more airport ***shuttle*** [~~limousine~~] certificates;

(3) (a) The term "local cartage certificate" means a certificate granting authority only for the operation of motor vehicles exclusively engaged in the transportation of property for hire between points within a city or within a city and its commercial area;

(b) A "local cartage vehicle" ***means*** [~~is~~] a motor vehicle operated under a local cartage certificate;

(4) The term "U-drive-it" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;

(5) The term "driveaway" means the transporting and delivering of motor vehicles, except semi-trailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semi-trailers shall not be included in the term.

Section 3. KRS 186.276 is amended to read as follows:

On or before March 1 of each year and as a condition precedent to the use of the highways, every carrier or motor carrier operating airport ***shuttle vehicles as defined in KRS 281.014*** [~~limousines~~] shall pay to the department of vehicle regulation for the privilege of using the highways an annual tax upon each motor vehicle so used in the amount of three dollars ($3.00) for each regular seat, in addition to the fee imposed by KRS 186.050(1), if applicable.

Section 4. KRS 186.281 is amended to read as follows:

(1) On or before January 1 of each year, and as a condition precedent to the use of the highways, every motor carrier primarily engaged in transporting passengers for hire shall pay to the department of vehicle regulation for the privilege of using the highways an annual tax upon each motor vehicle so used, as follows: Four dollars and fifty cents ($4.50) for each regular seat for the first thirty-one (31) seats, and eight dollars ($8) for all seats in excess of thirty-one (31); except as provided in subsection (2) of this section, except that holders of nonprofit bus certificates shall be exempt from payment hereunder and except that taxicabs, ***limousines,*** city buses, industrial buses, suburban buses, and U-Drive-Its ***as defined in KRS Chapter 281***, shall pay the fees set forth in subsection (3) of this section.

(2) (a) Any such motor carrier engaged in regular route interstate commerce or combined interstate and intrastate commerce and operating two (2) or more vehicles in Kentucky shall be required to pay only that portion of a tax imposed by subsection (1) of this section as the number of miles operated by such fleet of motor vehicles in Kentucky bears to the total miles operated by such fleet in any license year, or portion thereof.

(b) Any such motor carrier shall prior to January 1 of each license year, and as a prerequisite to operating on the highways of this state, obtain a permit from the department of vehicle regulation and at that time shall pay its estimated tax hereunder, as determined by the department of vehicle regulation's applicable regulations, and execute bond for any additional tax which might be due, with or without surety thereon, as the department of vehicle regulation in its discretion and according to its regulations might require.

(c) The Department of Vehicle Regulation is authorized and directed to promulgate such [~~rules and~~] regulations as may be necessary to effectuate the apportionment of taxes prescribed in subsection (2) of this section. Such regulations shall provide that the estimate of such taxes for any license year shall be that proportion that would have been due in the prior license year and shall further provide for a license year-end accounting with a system of credit or deficiency assessment in any amount by which the estimate differs from the tax due hereunder.

(3) Taxicabs, ***limousines,*** city, suburban and industrial buses, and U-Drive-Its, shall pay the following annual license fees:

| | |
|---|---|
| Each taxicab | $3.00 per seat |
| ***Each limousine*** | ***$3.00 per seat*** |
| Each city bus | $5.00 per vehicle |
| Each industrial bus | $2.50 per seat |
| Each suburban bus | $5.00 per vehicle |
| Each U-Drive-It passenger car | $2.50 per seat |

(4) All cities of the Commonwealth are hereby authorized to impose an annual license tax on all taxicabs ***or limousines*** certificated by the Department of Vehicle Regulation for operation in said city, which license tax shall not exceed thirty dollars ($30) per taxicab ***or limousine***.

(5) Notwithstanding any other provisions of this section, nonresident motor carriers engaged in transporting passengers for hire in irregular route interstate charter or special operations shall be exempt from all taxes and fees prescribed herein, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

**HB 780,** AN ACT relating to motor vehicles.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "Historic Vehicle" shall mean all motor vehicles ***twenty-five (25)*** [~~thirty (30)~~] years old or older, which are used primarily for exhibition in shows, parades, tours and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. Such registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of a fee of fifty dollars ($50) and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number ***one hundred (***[~~“~~]100***)***[~~”~~] and continue in a consecutive numerical sequence.

(5) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of two dollars ($2).

(6) The secretary of the cabinet may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

**SB 34,** AN ACT relating to license plates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186.173 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the Kentucky National Guard or any retired member of the national guard with ***twenty (20)*** [~~twenty-five (25)~~] years of service shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the national guard. The guardsman or retired guardsman may purchase only one (1) such registration annually and it ***shall*** [~~must~~] be for a vehicle which he owns or leases. Each application shall be accompanied by proof of current or previous service in the Kentucky National Guard, and the payment of a one-time fee of twenty-five dollars ($25). License plates issued under this section shall expire on December 31. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service or ***twenty (20)*** [~~twenty-five (25)~~] years of previous service in the Kentucky National Guard, and without payment of a registration fee, the clerk shall issue a new plate, or a renewal decal, as directed by the Transportation Cabinet.

(2) (a) Upon the sale, transfer or termination of lease of a vehicle licensed as authorized by subsection (1) of this section, the owner or lessee shall remove the national guard license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate, and certificate of registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and two dollar ($2) clerk's fee.

(b) Upon application of another vehicle which is authorized to bear ***the*** [~~such~~] registration under subsection (1) of this section, owned or leased by the same applicant to whom the national guard license plate was originally issued, the county clerk shall issue another such license plate. There shall be no state fee for this plate and one dollar ($1) clerk's fee.

(3) Upon termination of membership in the Kentucky National Guard, except for those retired persons who remain eligible through the provisions of subsection (1) of this section, an applicant to whom a national guard license plate was issued under this section shall, within thirty (30) days, return the national guard plate to the county clerk of the county of his residence.

(4) For the services performed in issuing national guard license plates, and in annually issuing a renewal decal to be affixed to the national guard license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). A one dollar ($1) fee shall be charged for the issuance of another replacement license plate after the sale, transfer or termination of lease of the vehicle for which it was originally issued.

(5) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(6) The secretary of the Transportation Cabinet shall, in accordance with the provisions of KRS Chapter 13A, make [~~such~~] reasonable regulations and prescribe ***the*** [~~such~~] forms as may be necessary to carry out the purpose of this section.

Section 2. KRS 186.1732 is amended to read as follows:

(1) Upon application to the county clerk of the county of residence, a member of the United States army reserve or any retired member of the army reserve with ***twenty (20)*** [~~twenty-five (25)~~] years of service shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "United States Army Reserve" and a registration number. The member or retired member may purchase only one (1) such registration annually and it ***shall*** [~~must~~] be for a vehicle in which he has total or partial ownership. Each application shall be accompanied by proof of current or previous service in the United States armed forces, and the payment of a one-time fee of twenty-five dollars ($25). License plates issued under this section shall expire on December 31. Annually, thereafter, upon application to the county clerk of the county of his residence, together with proof of current service or ***twenty (20)*** [~~twenty-five (25)~~] years of previous service in the United States armed forces, and with payment of a renewal registration fee of eleven dollars and fifty cents ($11.50) and two dollars ($2) clerk's fee, the clerk shall issue a new plate or renewal decal as directed by the Transportation Cabinet. Application for registration under this section shall be made to the county clerk of the county of residence and shall be accompanied by the appropriate fees prescribed by this section.

(2) (a) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the

owner shall remove the army reserve license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an eleven dollar and fifty cent ($11.50) state fee and two dollar ($2) clerk's fee.

(b) Upon application of another vehicle which is authorized to bear ***the*** [~~such~~] registration under subsection (1) of this section, owned by the same applicant to whom the army reserve license plate was originally issued, the county clerk shall issue another such license plate. There shall be no state fee for the plate and a two dollar ($2) clerk's fee.

(3) Upon termination of membership in the United States army reserve, except for those retired persons who remain eligible through the provisions of subsection (1) of this section, an applicant to whom an army reserve license plate was issued under this section shall, within thirty (30) days, return the army reserve plate to the county clerk of his county of residence.

(4) For the services performed in issuing army reserve license plates, and in annually issuing a renewal decal to be affixed to the army reserve license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). A like fee shall be charged for issuance of a replacement license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The secretary of the Transportation Cabinet shall, in accordance with the provisions of KRS Chapter 13A, make [~~such~~] reasonable administrative regulations and prescribe ***the*** forms [~~as may be~~] necessary to carry out the purpose of this section.

**SB 81,** AN ACT relating to motor vehicle registration plates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section, the term "Street Rod" shall mean a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949.***

***(2) Upon application to the county clerk of the county of his residence, and upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerks fee, and an additional twenty five dollar ($25) fee, the clerk shall issue a five (5) year license plate bearing the words "Street Rod" to an applicant who owns a vehicle which qualifies under the definition in subsection (1) of this section.***

***(3) Annually thereafter, upon payment of an eleven dollar fifty cent ($11.50) registration fee and a two dollar ($2) clerks fee, the clerk shall issue a renewal decal to the applicant to be affixed to the street rod license plate.***

***(4) Upon sale or transfer of a vehicle licensed according to this section, the owner shall return the street rod license plate and the certificate of registration to the county clerk. The clerk shall issue a regular license plate, and certificate registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerks fee.***

***(5) License plates issued under this section shall be designed by the Transportation Cabinet. The Secretary of Transportation shall promulgate regulations for the purpose of administrating the issuance of this plate.***

***(6) In the event a street rod plate deteriorates to a point where the inscriptions thereon are not discernable, the owner may obtain a replacement plate free of charge. In the event the street rod plate is lost, stolen or mutilated, if the owner has not transferred a vehicle during the current period, he may obtain a regular plate free of charge.***

**SB 237,** AN ACT relating to motor vehicle license plates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186.240 is amended to read as follows:

***(1)*** It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260 and in so doing shall:

***(a)***[~~(1)~~] Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260, provided that the forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county; the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;

***(b)***[~~(2)~~] Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; ***and***

***(c)***[~~(3)~~] Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes which shall contain the registration number, the word "Kentucky" and the name of the county in which the plate is issued or in lieu thereof the words "Official," "Transportation," "Executive," "Farm," or in the case of plates for commercial vehicles, such words or information as the Department of Vehicle Regulation may by regulation provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no numerals indicating any year shall be placed upon any license plate issued under and in accordance with the provisions of KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and of KRS 186.061, relating to the licensing of vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon such plate if so desired.[~~;~~]

***(2)***[~~(4)~~] All license plates issued pursuant to KRS 186.050(1) after January 1, 1988, shall conform to the provisions of subsection ***(1)(c)*** [~~(3)~~] of this section except that the word "Kentucky" shall be centered above the county name in which the plate is issued***,***[~~;~~] the words "Bluegrass State" shall be centered at the ***top*** [~~bottom~~] of the plate ***above*** [~~below~~] the registration number***,*** and the name of the county in which the plate is issued shall be centered in the ***lower*** [~~upper~~] portion of the plate ***below*** [~~above~~] the registration number and ***shall be printed in letters which are the same size as those used to print the word*** [~~below the word~~] "Kentucky." After January 1, 1988, the Transportation Cabinet may provide for the issuance of reflectorized plates for any or all motor vehicles and if reflectorized plates are issued may collect a fee, in addition to the fee set out in KRS 186.050, of fifty cents (50);

***(3)***[~~(5)~~] The Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn same over to the State Treasurer for the benefit of the state road fund;

***(4)***[~~(6)~~] The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation and approval of the auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071; and

(7) When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

Section 2. KRS 186.060 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state or by the state or federal government shall be accompanied by a statement from the head of the department of the governmental unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the governmental unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240***(1)(c)***[~~(3)~~], and report the registration to the head of the department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the department upon whose authorization such license was issued.

(2) After such registration of any vehicle owned exclusively by a county, city, urban county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of ***the*** [~~said~~] vehicle shall be necessary so long as ***the*** [~~said~~] vehicle is owned exclusively by such governmental unit except in the case of loss or destruction of ***the*** [~~said~~] license plate. In the event of such loss or destruction, ***the*** [~~said~~] number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by a county, city, urban county, or board of education, or

emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government is transferred or sold to another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by a county, city, urban county, board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or the state or federal government, any license plate that has been issued for use on a motor vehicle owned by such a governmental unit.

Section 3. KRS 186.061 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit shall be accompanied by a statement from the chief or assistant chief of the volunteer fire department or unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the volunteer fire department or unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240***(1)(c)***[~~(3)~~], and report the registration to the head of the cabinet authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the volunteer fire department or unit.

(2) After such registration of any vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of ***the*** [~~said~~] vehicle shall be necessary so long as ***the*** [~~said~~] vehicle is owned exclusively by such volunteer fire department or unit except in the case of loss or destruction of ***the*** [~~said~~] license plate. In the event of such loss or destruction, ***the*** [~~said~~] number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit is transferred or sold to another nonprofit volunteer fire department, volunteer fire prevention unit or volunteer fire protection unit or another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by any nonprofit volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, any license plate that has been issued for use on a motor vehicle owned by such a volunteer fire department or unit.

Section 4. KRS 186.174 is amended to read as follows:

(1) Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and rental motor vehicles, for any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2) may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25) is received by the Transportation Cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, a cashier's check or a money order. The application and the twenty-five dollar ($25) fee is to be forwarded immediately to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner or lessee shall make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an applicant obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application. All personalized license plates issued pursuant to this section after December 31, 1988, shall have the same design as the license plates described by KRS 186.240***(2)***[~~(4)~~].

(3) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a) the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue ***the*** [~~said~~] personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue ***the*** [~~said~~] personalized plate and receive five dollars ($5) and three dollars ($3) for each sidecar attachment.

(5) (a) Upon the sale, transfer or termination of lease of such motor vehicle bearing such personalized plate, the owner or lessee shall remove same and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When ***the*** [~~said~~] personalized plate has been presented to the clerk, he shall reissue same free of charge by the Transportation Cabinet and upon payment of a one dollar ($1.00) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(7) In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.

(8) The secretary of the Transportation Cabinet may make such administrative regulations as he deems necessary to further the purposes of this section.

The Committee on Cities reported **HB 731, HB 755, HB 768** and **HB 809** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 731,** AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates, it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. ***In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027.*** The city shall not collect ***either tax authorized by this paragraph*** [~~the special property tax~~] if its participation has been terminated pursuant to KRS 78.535; and

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employees retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the county employees retirement system.

(7) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the county employees retirement system. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988 who transfer to the county employees retirement system, shall be certified by their employers as working in hazardous positions. Each city participating in the county employees retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its

police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the county employees retirement system for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

**HB 755,** AN ACT relating to city housing authorities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 80.030 is amended to read as follows:

A city housing authority shall consist of the mayor, ex officio, ***or his designee*** and four (4) persons appointed by him with the approval of the city legislative body.

**HB 768,** AN ACT relating to fire protection in cities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

***(1) KRS Chapter 95 shall not be construed as requiring the establishment or maintenance of a full-time, paid, professional fire department in cities of the third class notwithstanding the provisions of KRS 95.440 through 95.505 and KRS 95.520 through 95.629.***

***(2) All cities of the third class shall provide for fire protection service for their residents by direct provision of the service or by contract with another provider.***

***(3) No city of the second or third class which has not established a fire department prior to the effective date of this Act, shall establish a fire department if a fire protection district established pursuant to KRS Chapter 75 provides the city with fire protection service.***

***(4) Whenever a city of the second or third class expands its jurisdictional boundaries, and if the city receives fire protection service from a fire protection district established pursuant to KRS Chapter 75, fire protection service for the newly acquired municipal area shall be provided by the fire protection district.***

**HB 809,** AN ACT relating to local governments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this Act, unless the context otherwise requires, "purchaser" means any city, county, or urban county government which receives goods or services from a vendor.***

***(2) All bills for goods or services shall be paid within thirty (30) working days of receipt of a vendor's invoice except when payment is delayed because the purchaser has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor's subcontractor.***

***(3) An interest penalty of one percent (1%) of any amount approved and unpaid shall be added to the amount approved for each month or fraction thereof after the thirty (30) working days which followed receipt of vendor's invoice by the purchaser.***

The Committee Amendment No. 1 to **HB 809** is as follows:

Amend printed copy of **HB 809** on page 1, line 7, after the number "***(2)***" by inserting the following new language, "***Unless the purchaser and vendor otherwise contract,***"; and

On page 1, line 7, by changing the "***A***" in the word "***All***" to lower case.

## Calendar

**HB 327, HB 495, HB 515, HB 611, HB 632, HB 667, HCR 163, SB 270, HB 162, HB 718, HB 719, HB 735, HB 839, HB 840, HB 841, SCR 72, HB 429, HB 538, HB 579, HB 691, HB 738, HB 742, HB 938, HCR 141** and **HCR 156** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**HB 598** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 188** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:25 p.m.)

### Orders of the Day

Representative Stumbo moved that the rules be suspended to communicate with the members. Agreed.

Representative Stumbo advised the members to be mindful of House Rule No. 73.

**SB 88**, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **SB 88**. Agreed.

Representative Scorsone moved the adoption of Floor Amendment No. 4 to **SB 88**. Agreed.

Representative L. Clark moved that **SB 88**, as amended, be passed.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to **SB 88**. Rejected.

On the roll call the vote was: Yeas 91, Nays 5. (See March 8, 1990 roll call on **SB 88** - Appendix.)

**SB 88**, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **SB 88**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 465**, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 465**. Agreed.

Representative Clarke moved the adoption of Committee Amendment No. 2 to **HB 465**. Agreed.

Representative Clarke moved that **HB 465**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 8, 1990 roll call on **HB 465** - Appendix.)

**HB 465**, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 465**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 115**, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Committee Substitute No. 2 to **HB 115**. Agreed.

Representative Morris moved the adoption of Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 115**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 6 to the Committee Substitute No. 2 to **HB 115**. Agreed.

Representative Lewis moved that **HB 115**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 15. (See March 8, 1990 roll call on **HB 115** - Appendix.)

**HB 115**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 115**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 189**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved the adoption of Committee Substitute to **HB 189**. Agreed.

Representative Blevins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 189**. Agreed.

Representative White moved that **HB 189**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 8, 1990 roll call on **HB 189** - Appendix.)

**HB 189**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative White moved that the vote by which **HB 189**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 390**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of Committee Amendment No. 1 to **HB 390**. Agreed.

Representative Siler moved that **HB 390**, as amended, be passed.

On the roll call the vote was: Yeas 61, Nays 22. (See March 8, 1990 roll call on **HB 390** - Appendix.)

**HB 390**, as amended, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 390**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 687** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 687** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 8, 1990 roll call on **HB 687** - Appendix.)

**HB 687** was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 687** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 695**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 695**. Agreed.

Representative Farrow moved that **HB 695**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 8, 1990 roll call on **HB 695** - Appendix.)

**HB 695**, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 695**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 639**, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Committee Substitute to **HB 639**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 639**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 639**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 9 to the Committee Substitute to **HB 639**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 639**. Agreed.

Representative Lewis moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 639**.

On the roll call the vote was yeas 53—Ackerson, Altman, Ark, Arnold, Barrows, Bentley, Blevins, Bronger, Burch, Butler, Casebier, Castleman, L. Clark, P. Clark, Cline, Curd, Deskins, Farrow, Ford, Freibert, Gedling, Geveden, Gray, K. Harper, Heleringer, T. Jones, Keith, Lear, Lefevers, LeMaster, Lewis, Lile, Long, Mack, Maggard, Mason, McBee, Moberly, Noe, O'Brien, Priddy, Pritchett, Rapier, Richards, Riner, Sheehan, Siler, Stokes, Walker, Ward, White, Yates, Zimmerman. Nays 35—Adkins, Allen, Ballard, Bruce, Callahan, Clarke, Crupper, Curtsinger, Cyrus, Donnermeyer, Gregory, Hancock, Hatcher, Hourigan, Johnson, A. Jones, Kerr, Layman, Little, McElroy, Mullinix, Napier, Nelson, Nett, Northup, Overstreet, Preston, Reinhardt, B. Richardson, Ridley, B. Smith, R. Smith, Stumbo, Todd, Turner.

Floor Amendment No. 5 to the Committee Substitute to **HB 639** was adopted.

Representative Blevins moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 639**.

Representative Overstreet inquired whether Floor Amendment No. 4 to the Committee Substitute to **HB 639** was a piggyback amendment.

The Speaker ruled that Floor Amendment No. 4 to the Committee Substitute to **HB 639** was not a piggyback amendment.

Representative Overstreet inquired whether Floor Amendment No. 4 to the Committee Substitute to **HB 639** was germane to the Bill.

The Speaker ruled that Floor Amendment No. 4 to the Committee Substitute to **HB 639** was not germane to the Bill.

Representatives Stokes moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 639**.

Representative Deskins inquired whether Floor Amendment No. 2 to the Committee Substitute to **HB 639** was a piggyback amendment.

The Speaker ruled that Floor Amendment No. 2 to the Committee Substitute to **HB 639** was not a piggyback amendment.

On the roll call the vote was yeas 21—Ackerson, Blevins, Burch, L. Clark, Freibert, Gray, Hancock, Heleringer, Lefevers, Long, Mack, Mason, Moberly, Noe, Noland, Priddy, Riner, Stokes, Ward, White, Yates. Nays 68—Adkins, Allen, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Bronger, Bruce, Butler, Callahan, Casebier, Castleman, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Little, Maggard, McBee, McElroy, Mullinix, Napier, Nelson, Nett, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Sheehan, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, Zimmerman.

Floor Amendment No. 2 to the Committee Substitute to **HB 639** was rejected.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 639**.

On the roll call the vote was yeas 71—Ackerson, Altman, Ark, Arnold, Bentley, Blandford, Blevins, Bronger, Burch, Butler, Callahan, L. Clark, P. Clark, Clarke, Cline, Curd, Donnermeyer, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Morris, Mullinix, Napier, Nett, Noland, Northup, O'Brien, Priddy, Pritchett, Richards, P. Richardson, Ridley, Riner, Scorsone, Siler, B. Smith, R. Smith, Stokes, Todd, Turner, Walker, Ward, White, Worthington, Yates. Nays 19—Allen, Ballard, Brown, Bruce, Castleman, Crupper, Curtsinger, Deskins, Gregory, T. Jones, Little, Nelson, Overstreet, Preston, Rapier, Reinhardt, B. Richardson, Strong, Stumbo.

Floor Amendment No. 1 to the Committee Substitute to **HB 639** was adopted.

Representative Burch moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 639**.

On the roll call the vote was yeas 58—Ackerson, Adkins, Ark, Arnold, Bentley, Blandford, Blevins, Bronger, Burch, Butler, Casebier, Castleman, L. Clark, Cline, Curd, Curtsinger, Cyrus, Farrow, Freibert, Gedling, Hancock, Hatcher, Jensen, Keith, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Noe, Noland, O'Brien, Priddy, Rapier, Richards, B. Richardson, Ridley, Riner, Scorsone, Sheehan, B. Smith, Stokes, Strong, Stumbo, Turner, Ward, White, Yates, Zimmerman. Nays 34—Allen, Altman, Ballard, Barrows, Brown, Bruce, Callahan, Clarke, Crupper, Deskins, Donnermeyer, Ford, Geveden, Gregory, J. Harper, K. Harper, Heleringer, Hourigan, Jackson, Johnson, A. Jones, Kerr, Little, Morris, Napier, Northup, Overstreet, Preston, Pritchett, Reinhardt, Siler, R. Smith, Todd, Walker.

Floor Amendment No. 3 to the Committee Substitute to **HB 639** was adopted.

Representative Burch moved that **HB 639**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 4. (See March 8, 1990 roll call on **HB 639** - Appendix.)

**HB 639**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 639**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

### Senate Message

Announcing passage of **SB 92**, **SB 296**, **SB 309**, **SB 314**, **SB 316**, **SB 334**, **SB 336**, **SB 350**, **SCR 91**, **SJR 93**, **HB 142**, **HB 207**, **HB 252**, **HB 299**, **HB 328**, **HB 460**, **HB 533**, **HB 572**, **HJR 8** and **HCR 99**.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 73**, **HB 98**, **HB 253**, **HB 264**, **HB 373**, **HB 417** and **HB 436** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:07 p.m.)

**HB 73**, **HB 98**, **HB 253**, **HB 264**, **HB 373**, **HB 417** and **HB 436** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Motions, Petitions and Communications

Representative Burch moved that the vote by which **SB 68** was defeated be reconsidered and that **SB 68** be placed in the Orders of the Day, March 9, 1990, seconded by Representative Deskins.

On the roll call the vote was yeas 56—Ackerson, Bentley, Blandford, Bronger, Brown, Bruce, Burch, Butler, Casebier, Castleman, L. Clark, P. Clark, Deskins, Ford, Freibert, Gray, Gregory, J. Harper, Hatcher, Heleringer, Hourigan, Johnson, A. Jones, Keith, Lewis, Lile, Little, Mack, Maggard, Mason, McElroy, Morris, Mullinix, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Priddy, Richards, B. Richardson, Ridley, Riner, Siler, B. Smith, R. Smith, Stokes, Strong, Todd, Turner, Ward, Worthington, Yates, Zimmerman. Nays 33—Adkins, Allen, Ark, Arnold, Ballard, Barrows, Callahan, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Gedling, Geveden, Hancock, K. Harper, Jackson, T. Jones, Kerr, Layman, Lefevers, Lyne, Moberly, Napier, Preston, Rapier, Reinhardt, P. Richardson, Sheehan, Stumbo, Walker, White.

The motion that **SB 68** be reconsidered and that **SB 68** be put in the Orders of the Day, March 9, 1990 was adopted.

Representative Turner moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Turner moved the adoption of the following Legislative Citation No. 58. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the Honorable Buel Elgar Guy upon the forty-first anniversary of his human birth.

Further, this august body does commend the former Gentleman from Allen for his calm demeanor, sober judgment and vigilant stewardship in matters germane to the lifeblood of legislative continuity.

Also, this honorable body recognizes the talents that Buel Elgar Guy brings to service in this hallowed chamber. His history as a civil defense specialist has stemmed the tide of brushfires inherent to staff activities. His background in the Industrial Education Association has assured this body that constant service is applied to the chamber's roll call machine. And his background as a farmer assures him that he can cope with all fertilizing aspects of government employment.

Representative Donnermeyer moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Donnermeyer moved the adoption of the following Legislative Citation No. 57. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors, recognizes, and commends the International Roll Call Machine of the House of Representatives for its ability to halt all legislative action. Said roll call machine has defied all attempts to bring this honorable body into step with the rest of the twentieth century.

The International Roll Call machine of the House of Representatives has accomplished what contentions of germaneness, allegations of chicanery, suspension of the rules and points of personal privilege have failed to do. To wit: said mechanical device has halted the chorus of democratic debate.

Further, the House of Representatives recommends that the International Roll Call machine of the House of Representatives be placed into that historical category containing other monuments of technological acumen such as the Edsel automobile, the Spiro Agnew watch and Elvis Presley impersonators.

Finally, the House of Representatives doth renames the International Roll Call machine the Donald J. Blandford Memorial Roll Call Device.

Representative Donnermeyer moved that a call of the roll be taken to show co-sponsors of Legislative Citation No. 57. Agreed.

On the roll call the vote was yeas 72—Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, P. Clark, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Jackson, A. Jones, Keith, Kerr, Layman, Lewis, Lile, Little, Long, Lyne, Mack, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Northup, O'Brien, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 3—Barrows, Clarke, Hourigan.

Representative Stumbo moved that **SB 271** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that **SB 206** be reassigned to the Committee on Transportation. Agreed.

Representative Stumbo moved that **HB 416** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Introduction of Bills and Resolutions

**HR 197**, by Representatives Johnson and Blandford: A RESOLUTION honoring senior, Carrie Johnson of Owensboro Catholic High School.

**HR 198**, by Representative Geveden: A RESOLUTION recognizing Harvey M. Pewitt and adjourning in his honor.

**HR 199**, by Representative Hancock: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bernard Taylor Carter, Sr.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 492**, **HB 802**, **HB 75**, **HB 174**.

Economic Development and Tourism: **SB 169**.

Transportation: **HB 747**, **HB 705**, **HB 640**, **HB 552**, **HJR 164**.

Cities: **HB 939.**

Natural Resources and Environmental Protection: **SB 311, SB 217, SB 249, SCR 97, HB 488, HB 513, HB 618, HB 654, HB 674, HB 736, HB 748, HB 792, HB 793, HB 847, HB 851, HB 853, HB 856, HB 893, HB 915, HB 920.**

Education: **SB 261, SCR 3, SJR 44, HB 927, HB 928.**

Health and Welfare: **HB 672.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee Consideration:

Economic Development and Tourism: **HB 857, HB 858, HCR 125.**

The Speaker announced the appointment on the following members to serve on a Conference Committee on **HB 112**: Representative Long, Chairman; Representatives Lear and Preston.

Representative Hancock moved the adoption of the following **HR 199**:

**HR 199,** A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bernard Taylor Carter, Sr.

With deepest respect, we pay homage and tribute to the memory of Bernard Taylor Carter, Sr.

WHEREAS, Bernard Taylor Carter, Sr., a native of Frankfort, Kentucky, was born on May 3, 1925, and departed this life on Tuesday, March 6, 1990; and

WHEREAS, Bernard Taylor Carter, Sr. graduated from Frankfort High School in 1943; and

WHEREAS, Bernard Taylor Carter, Sr. attended the University of Kentucky and the University of Missouri, receiving an A. B. degree in wildlife biology; and

WHEREAS, Bernard Taylor Carter, Sr. graduated in 1958 from the University of Louisville with a Master of Science degree in aquatic biology, and did post graduate work in management and economics at Pennsylvania State and George Washington Universities; and

WHEREAS, Bernard Taylor Carter, Sr. served his country with distinction in the United States Coast Guard, during World War II; and

WHEREAS, Bernard Taylor Carter, Sr. is best remembered and admired for his contribution in defending, preserving and protecting our natural resources and wildlife; and

WHEREAS, Bernard Taylor Carter, Sr. was a devoted conservationist, and spent most of his life in the development and preservation of Kentucky's waterways and wildlife; and during his years as director of fisheries for the Department of Fish and Wildlife Resources, he was instrumental in establishing Kentucky's trout fishing program, and in the construction of the Wolf Creek Federal Trout Hatchery; and

WHEREAS, Bernard Taylor Carter, Sr. programmed and designed the Minor Clark Fish Hatchery in Rowan County; represented the Department of Fish and Wildfish Resources on the Water Pollution Control Commission from 1956 to 1970; served as chairman of the University of Kentucky Water Resource Research Institutes Advisory Council; and was past chairman of the United States Army Corps of Engineers reservoir operations coordinating committee; and

WHEREAS, Bernard Taylor Carter, Sr. was Special Assistant for Environmental Affairs for Governor Julian Carroll; and in 1977, he was appointed commissioner of the Bureau of Natural Resources; and

WHEREAS, Bernard Taylor Carter, Sr. returned to the Governor's office after the 1978 flood for the purpose of coordinating the work of the Governor's Task Force on Flooding; and

WHEREAS, Bernard Taylor Carter, Sr. was the loving husband of Kathy Walters Carter, the devoted father of Susan Carter Jeffers, Mark Carter, and Taylor Carter, Jr., and the proud grandfather of two grandchildren; and

WHEREAS, the passing of Bernard Taylor Carter, Sr. has left a void that will be difficult to fill, and all who knew and admired Bernard Taylor Carter, Sr. will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body does hereby express its profound sense of sorrow upon the death of Bernard Taylor Carter, Sr., and extends to his family its most heartfelt sympathy.

Section 2. That a memorial service will be held on Friday, March 9, 1990 at 2:00 p.m., Rogers Funeral Home, Frankfort, Kentucky, with Dr. Herman Bowers officiating.

Section 3. That when the House of Representatives adjourns this date, Thursday, March 8, 1990, it does so in loving memory and honor of Bernard Taylor Carter, Sr.

Section 4. That the Clerk of the House of Representatives is directed to transmit one copy of this resolution to Mrs. Kathy Walters Carter, 204 Montgomery Avenue, Frankfort, Kentucky 40601, and fourteen copies to Mrs. Nora Bentley, Route 1, Spring Creek, #48, Versailles, Kentucky 40383, for distribution to family and friends.

**HR 199** was adopted by voice vote.

Representative Johnson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Johnson moved the adoption of the following **HR 197**:

**HR 197**, A RESOLUTION honoring senior, Carrie Johnson of Owensboro Catholic High School.

WHEREAS, Carrie Johnson is an admired young woman at Owensboro Catholic High School; and

WHEREAS, Carrie Johnson is a prominent student and basketball player, as well as an outstanding young woman; and

WHEREAS, Carrie Johnson is a star 3.0 shooter in the third region having made 73 three point shots; and

WHEREAS, this leading basketball scorer made All District and All City; and

WHEREAS, Carrie Johnson is a record scorer with over 500 career points at Owensboro Catholic High School; and

WHEREAS, Carrie Johnson ranks high academically and is a distinguished member of the National Honor Society; and

WHEREAS, Principal Joseph O'Bryan, Coach Mike Reeves, and Assistant Coach Ben Thompson are very proud of Carrie Johnson;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives salutes Carrie Johnson, an outstanding Kentuckian.

Section 2. That the House of Representatives commends Carrie Johnson on her dedication and conscientiousness.

Section 3. That the clerk of the House transmit 4 copies of this resolution to Owensboro Catholic High School, 1524 Parrish Avenue, Owensboro, Kentucky 42301, for distribution to Carrie Johnson, Principal Joseph O'Bryan, Coach Mike Reeves, and Assistant Coach Ben Thompson.

**HR 197** was adopted by voice vote.

Representative Mack moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Mack moved that he be recorded as voting "yea" on **HB 390**, **HB 687**, **HB 695**, **HB 639**. Agreed.

Representative O'Brien moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative O'Brien moved that he be recorded as voting "yea" on **HB 687**. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 595**. Agreed.

Representative Noe moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noe moved that he be recorded as voting "yea" on **HB 390**. Agreed.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 687**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 436**. Agreed.

Representative Nett moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nett moved that he be recorded as voting "nay" on **SB 88**. Agreed.

Representative Curtsinger moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Curtsinger moved that he be recorded as voting "yea" on **HB 639**. Agreed.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 8 to the Committee Substitute to **SB 68**, by Representative Johnson:

Amend printed copy of HCS to **SB 68** on page 2, before "Section 18", by adding the following: "***(3) This section shall not apply to clinics where abortions are performed.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 262**, by Representative Heleringer:

Amend printed copy of HCS to **HB 262** on page 1, line 11, following "***any***" to add "***circuit***".

Floor Amendment No. 2 to the Committee Substitute to **HB 536**, by Representative McBee:

Amend printed copy of HCS to **HB 536** on page 21, line 11, after the word "***shall***" by deleting the word "***designate***" and insert in lieu thereof the word "***request***" and after the word "***dates***" by deleting the word "***for***"; and

On page 21, line 12, after the word "***it***" by deleting the words "***exercises this right of first refusal***" and insert in lieu thereof the word "***desires***".

Floor Amendment No. 3 to the Committee Substitute to **HB 536**, by Representative McBee:

Amend printed copy of HCS to **HB 536** on page 21, line 20, after the word "***the***" by deleting the words "***secretary of the Public***" and on line 21, by deleting the words, "***Protection and Regulation Cabinet shall***" and by inserting in lieu thereof the following:

"***Governor shall appoint an impartial arbitrator to***".

Floor Amendment No. 1 to **HB 691**, by Representative Walker:

Amend printed copy of **HB 691** on page 1, line 10, before "***part-time***" insert "***permanent***"; and

On page 1, line 12, following "***assistance.***" insert: "***As used in this section, ''full-time equivalent'' means employment of two thousand (2000) hours annually.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 450**, by Representative Ark:

Amend printed copy of HCS to **HB 450** on page 3 after line 8 by adding:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***Nothing in this chapter shall prohibit the insured or representative of the insured from determining the content or extent of a health insurance contract.***"

Floor Amendment No. 4 to **HB 146**, by Representative Long:

Amend printed copy of **HB 146** on page 1, line 17, after the period, insert "***Nothing in this Act shall exempt Kentucky Housing Corporation bond issues from review by the Capital Projects and Bond Oversight Committee in accordance with the provisions of KRS 45.810.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 429**, by Representative Ford:

Amend printed copy of HCS to **HB 429** on page 5, lines 5 through 26, by deleting lines 5 through 26 in their entirety;

page 6, lines 1 through 7, by deleting lines 1 through 7 in their entirety;

and by renumbering subsequent sections to conform.

Floor Amendment No. 2 to **HB 700**, by Representative Worthington:

Amend printed copy of **HB 700** on page 10, line 14, by deleting the colon; and

On line 15, by deleting the "***(a)***" and also on line 15 after the word "***practice***" by deleting "***; and***" and by deleting lines 16 through 19 in their entirety and inserting in lieu thereof a period.

Floor Amendment No. 1 to **HB 579**, by Representative Rapier:

Amend printed copy of **HB 579** on page 6, line 2, after "(10)" insert a beginning bracket and strike through the line in its entirety thereafter;

lines 3 through 8, strike through lines 3 through 8 in their entirety;

line 9, after "(11)" place an ending bracket and strike through "(11)" and on line 9, place brackets around and strike through "1986" and insert after "1," "***1990***";

line 10, after "of" insert: "***five cents ($.05)***" and on line 10, place beginning bracket before "one-tenth" and strike through the line thereafter in its entirety;

line 11, after "($.001)" place ending bracket and strike through "($.001)";

line 14, after "materials" insert "***which includes distilled spirits and distilled spirits inventory,***";

line 16, place brackets around and strike through "(12)" and insert before "An" "***(11)***".

Floor Amendment No. 2 to **HB 375**, by Representative Northup:

Amend printed copy of **HB 375** on page 7, after line 25, add the following:

"Section 5. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the revenue cabinet;

(3) For tax years beginning on or after January 1, 1982, except as otherwise provided in this section, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1985, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employe pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employe; and

(e) Exclude social security and tier I railroad retirement benefits subject to federal income tax;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year; and

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 and by section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

***(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an administrative body of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained.***

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and

(e) Exclude expenses related to "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

***(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an administrative body of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained.***

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in section 528(c) of the Internal Revenue Code, means "taxable income" as defined in section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes

other income subject to withholding as provided in section 3401(f) and section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections."

The Clerk announced the following meetings:

The Committee on Appropriations and Revenue upon adjournment, March 9, 1990.

The Committee on Economic Development and Tourism upon adjournment, March 9, 1990.

The Budget Review Subcommittee on General Government, March 8, 1990 at 5:00 p.m.

## Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, March 9, 1990.

On the roll call the vote was yeas 85—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Yates, Zimmerman. Nays 3—Curtsinger, LeMaster, Worthington.

The motion to adjourn was adopted.

## FRIDAY, MARCH 9, 1990

## FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. Darrell Goodlet, Nelson County Baptist Church, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cline.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 8, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 17**, **SB 292**, **SB 320**, **SB 329**, **SB 341**, **SJR 92**, **HB 215** with Senate Amendment, **HB 301** with Senate Amendments, **HB 544** with Senate Amendment, **HB 267** and **HB 452**.

Message received on **HB 113**: The Senate respectfully requests that this Honorable Body concur with the Substitute.

### Introduction of Bills and Resolutions

**HR 200**, by Representative Kerr: A RESOLUTION adjourning the House of Representatives in honor and loving memory of John Keys.

### Report of Committees

The Committee on Rules reported **HB 556**, **HB 165**, **HB 293**, **HB 450**, **HB 506**, **HB 570**, **HB 603**, **HB 633**, **HB 704**, **HB 709**, **HB 791**, **HB 428**, **HB 429**, **HB 538**, **HB 579**, **HB 632**, **HB 691**, **HB 742**, **HCR 141**, **HCR 156**, **HCR 163** and **SCR 72** has been posted for passage in Orders of the Day, March 12, 1990.

The Committee on Rules report the following Consent Bill has been posted for passage in Regular Orders of the Day, March 12, 1990: **HB 598**.

The Committee on Rules reported the following Bills and Resolution have been recommitted:

Appropriations and Revenue: **HB 448**, **HB 209**.

Energy: **HCR 139**.

Business Organizations and Professions: **HB 162**.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Transportation: **HB 766**, **HB 333**.

### Calendar

**HB 800**, **HB 803**, **HB 911**, **SB 136**, **HB 262**, **HB 349**, **HB 406**, **HB 464**, **HB 480**, **HB 540**, **HB 559**, **HB 601**, **HB 644**, **HB 446**, **SB 141**, **SB 149**, **SB 154**, **SB 156**, **SB 194**, **SB 202**, **SB 205**, **SB 218**, **SB 255**, **HB 580**, **HB 677**, **HB 745**, **HB 765**, **HB 774**, **HB 818**, **SB 19**, **SB 182**, **HB 612**, **HB 664**, **HB 669**, **HB 701**, **HB 715**, **HB 898**, **SB 86**, **SB 207**, **SB 215**, **HB 51**, **HB 474**, **HB 549**, **HB 630**, **HB 635**, **HB 659**, **HB 678**, **HB 696**, **HB 707**, **HB 723**, **HB 724**, **HB 780**, **SB 34**, **SB 81**, **SB 237**, **HB 783**, **HB 731**, **HB 755**, **HB 768** and **HB 809** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**HB 500** and **SB 70** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 142**, **HB 207**, **HB 252**, **HB 299**, **HB 328**, **HB 460**, **HB 533**, **HB 572**, **HJR 8** and **HCR 99** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 9:15 a.m.)

**HB 142**, **HB 207**, **HB 252**, **HB 299**, **HB 328**, **HB 460**, **HB 533**, **HB 572**, **HJR 8** and **HCR 99** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Orders of the Day

**HB 558**, with Committee Amendments, Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved the adoption of Floor Amendment No. 1 to **HB 558**. Agreed.

Representative P. Richardson moved that **HB 558**, as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 16. (See March 9, 1990 roll call on **HB 558** - Appendix.)

**HB 558**, as amended, was passed.

Representative P. Richardson moved the adoption of the Committee Title Amendment to **HB 558**. Agreed; and the title was agreed to.

Representative P. Richardson moved that the vote by which **HB 558**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 807**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Floor Amendment No. 1 to **HB 807**. Agreed.

Representative Ridley moved that **HB 807**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 9, 1990 roll call on **HB 807** - Appendix.)

**HB 807**, as amended, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 807**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**SB 68**, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **SB 68**. Agreed.

Representative Morris moved that **SB 68**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 50, Nays 45. (See March 9, 1990 roll call on **SB 68** - Appendix.)

**SB 68**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 68**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 188** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that **HB 188** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 9, 1990 roll call on **HB 188** - Appendix.)

**HB 188** was passed and the title agreed to.

Representative White moved that the vote by which **HB 188** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 855**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of Committee Substitute to **HB 855**. Agreed.

Representative O'Brien moved that **HB 855**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 9, 1990 roll call on **HB 855** - Appendix.)

**HB 855**, by way of Committee Substitute, was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 855**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 122** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HCR 122** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 9, 1990 roll call on **HCR 122** - Appendix.)

**HCR 122** was passed and the title agreed to.

Representative Long moved that the vote by which **HCR 122** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 146** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HCR 146** be passed.

On the roll call the vote was: Yeas 87, Nays 6. (See March 9, 1990 roll call on **HCR 146** - Appendix.)

**HCR 146** was passed and the title agreed to.

Representative Burch moved that the vote by which **HCR 146** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 375**, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Northup moved the adoption of Floor Amendment No. 2 to **HB 375**.

On the roll call the vote was yeas 77—Ackerson, Adkins, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Blevins, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Curtsinger, Cyrus, Farrow, Freibert, Gray, Gregory, Hancock, J. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Northup, O'Brien, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Turner, Walker, Ward, White, Worthington. Nays 0.

Floor Amendment No. 2 to **HB 375** was adopted.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 375**. Agreed.

Representative Clarke moved that **HB 375**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 11. (See March 9, 1990 roll call on **HB 375** - Appendix.)

**HB 375**, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 375**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 59**, with Senate Floor Amendment No. 2 attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 59** is as follows:

Amend printed copy of **HB 59** on page 6, line 8, by adding thereafter the following:

"Section 4. KRS 95.859 is amended to read as follows:

***(1)*** The rate of retirement annuity shall be two and one-half percent (2 1/2%) of average salary, as defined in KRS 95.851(13), for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate.

***(2)*** [~~Provided, however, that~~] Any member who retired prior to June 21, 1974 shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars ($170) per month. No surviving widow of a retiree shall receive a pension of less than one hundred and fifty dollars ($150) per month. When social security benefits are increased the surviving widows' minimum shall be increased by a like percentage, ***but*** [~~provided that~~] the pension increase shall not exceed five percent (5%).

***(3)*** Within six (6) months after the performance of the actuarial study required by KRS 95.872(6), the rate of retirement annuity of each annuitant [~~who becomes an annuitant after June 21, 1974~~] shall be increased ***annually*** by an amount determined by the [~~said~~] study to reflect so much of the ***annual*** increase in the cost of living of ***the*** [~~such~~] annuitant [~~from the beginning of his annuity~~] as may be supported on an actuarially sound basis by the fund.[~~,~~] So long as the same is published, such studies shall rely on the "All Items Index" of the United States Department of Labor's Consumer Price Indexes, but no increase in the cost of living shall exceed ***five percent (5%) or the actual increase in the cost of living, whichever is lower. The*** [~~two percent (2%) over the base index year in any year of the fund, provided, however, such~~] increases shall be payable only after the member has [~~attained the age of sixty (60) years or has~~] been retired for a period of three (3) full years, [~~whichever is later,~~] and all [~~such~~] increases ***granted on July 15, 1990 or thereafter*** shall [~~not~~] be compounded.

***(4) A surviving spouse who does not receive a pension increase pursuant to subsection (2) of this section shall receive the same increase an annuitant receives pursuant to subsection (3) of this section.***".

Representative Pritchett moved that the House concur in Senate Floor Amendment No. 2 to **HB 59**. Agreed

Representative Pritchett moved that **HB 59**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 9, 1990 roll call on **HB 59** - Appendix.)

**HB 59**, as amended by the Senate, was passed and the title agreed to.

Representative Pritchett moved that the vote by which **HB 59**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce **HB 940**. Agreed.

**HB 940**, by Representative Blandford, Rapier, Richards, Stumbo, Clarke, Noe and Worthington: AN ACT relating to the reform of the Commonwealth's system of common schools, raising revenues incidental thereto, and responding to the Supreme Court's mandate in ***Rose v. Council for Better Education, Inc.*** and declaring an emergency.

### Motions, Petitions and Communications

Representative Maggard moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

**HR 201**, by Representative Maggard: A RESOLUTION supporting the mining application of Arch of the North Fork.

Representative Maggard moved the adoption of the following **HR 201**:

**HR 201.** A RESOLUTION supporting the mining application of Arch of the North Fork.

WHEREAS, Arch of the North Fork employs 375 miners at its Breathitt County, Kentucky mine and will finish mining at the site in November of this year; and

WHEREAS, in an effort to keep its miners employed, Arch has submitted an application to mine 105 acres nearby, adjacent to the University of Kentucky's Robinson Forest; and

WHEREAS, the proposed area is not a part of the University of Kentucky's property and Arch has every right to mine its property to employ its miners and support the economy of the area; and

WHEREAS, the University of Kentucky has bowed to the demands of a few special interests who have no concern for or involvement with the people and economy of the area and has petitioned the Natural Resources and Environmental Protection Cabinet to designate an area, including the proposed mine site, as an area unsuitable for mining; and

WHEREAS, the University of Kentucky has made a decision to oppose the permit without examining the human element;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the University of Kentucky is called upon to rethink its request that the area that Arch of the North Fork wishes to mine be designated as unsuitable for mining.

Section 2. That the Natural Resources and Environmental Protection Cabinet reject the request to designate the Arch mineral property as unsuitable for mining.

Section 3. That the Natural Resources and Environmental Protection Cabinet be called upon to treat Arch's permit request just as it treats all others and proceed expeditiously with its review.

Section 4. That copies of this Resolution be sent to the University of Kentucky and to Arch of the North Fork.

**HR 201** was adopted by voice vote.

Representative Kerr moved the adoption of the following **HR 200**:

**HR 200**, A RESOLUTION adjourning the House of Representatives in honor and loving memory of John Keys.

WHEREAS, the highest ideal of American citizenship is to serve others in our communities, states, and nation; and

WHEREAS, John Keys, a native of Taylor Mill, Kentucky, served his nation with distinction as a member of the United States Armed Forces during the Korean War; and

WHEREAS, as a dedicated member of the American Legion, and Sons of the American Legion, John Keys served his community and state by aiding distressed veterans, their widows and orphans, and others in need; and

WHEREAS, for his commitment and devotion, John Keys was elected Sixth District Commander of the Kentucky American Legion, and National Vice Commander of the Sons of the American Legion; and

WHEREAS, John Keys' devotion to serving others was recognized by his peers as unequaled and unparalleled; and

WHEREAS, John Keys represented the highest ideals of American citizenship, and his contributions to his community will have a lasting impact; and

WHEREAS, John Keys departed this life on Friday, February 23, 1990, succumbing to a two year battle with cancer; and

WHEREAS, John Keys was the devoted husband of Wanda Keys, the loving father of Keith Keys and Judy Keys, and the proud grandfather of Joey Keys and Sarah Keys; and

WHEREAS, all who knew and admired John Keys will grieve over their loss, and join his family and friends who mourn his passing;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the passing of John Keys, and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, Friday, March 9, 1990, it does so in loving memory and honor of John Keys.

Section 3. That the Clerk of the House of Representatives be directed to transmit three copies of this resolution to Mrs. Wanda Keys, 693 Garner Drive, Taylor Mill, Kentucky 41015.

**HR 200** was adopted by voice vote.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 191**:

**HR 191**, A RESOLUTION congratulating Joseph Conrad, the winner of the 1990 Poster Child Contest of the Kentucky Chapter of the Leukemia Society of America.

WHEREAS, Joseph Conrad is thoroughly enjoying the exciting life of a celebrity; and

WHEREAS, this six year old beams with delight when he tells of his picture being taken with the Honorable Martha Wilkinson; and

WHEREAS, Joseph Conrad is delighted to be featured in television, radio, newspaper, and public service announcements; and

WHEREAS, this celebrity of the Commonwealth looks forward to his gala appearances at most Leukemia Society sponsored events; and

WHEREAS, Joseph Conrad, the son of John and Annette Conrad, is a first grader at Watterson Elementary School;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives congratulates Joseph Conrad on his winning the 1990 Poster Child Contest.

Section 2. That this honorable body wishes Joseph Conrad much happiness and praises him on his service to the Commonwealth.

Section 3. That the Clerk of the House send copies of this resolution to Joseph, John, and Annette Conrad, respectively, at 4803 Lacarem Drive, Louisville, Kentucky 40299 and a copy to Gary Rawlings, Director, Kentucky Chapter of the Leukemia Society of America, 710 W. Main Street, Louisville, Kentucky 40202.

**HR 191** was adopted by voice vote.

Representative Geveden moved the adoption of the following **HR 198**:

**HR 198**, A RESOLUTION recognizing Harvey M. Pewitt and adjourning in his honor.

WHEREAS, Harvey M. Pewitt was a State Representative from Fulton and Hickman counties in 1948 and 1949; and

WHEREAS, Harvey M. Pewitt was designated a State Master Farmer in 1946; and

WHEREAS, for 20 years he led the Fulton County Agricultural Stabilization Conservation Committee as its chairman; and

WHEREAS, Harvey M. Pewitt helped organize the Fulton-Hickman County Rural Electric Cooperative Corporation and served on its board for 32 years; and

WHEREAS, as a member of the Palestine Methodist Church in Fulton County, he held every office and was the Secretary-Treasurer for 34 years; and

WHEREAS, Harvey M. Pewitt is survived by one of his three children, Harold Pewitt;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this august body recognizes the achievements and contributions made to the Commonwealth by Harvey M. Pewitt and adjourns this day in his honor.

Section 2. That the Clerk of the House dispatch a copy of this resolution to Harold Pewitt at his home in Fulton County.

**HR 198** was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

## Introduction of Bills and Resolutions

**HR 202**, by Representative Farrow: A RESOLUTION honoring the Georgetown College mens' basketball team.

## Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **SB 180, HB 875, HB 869, HB 811.**

Economic Development and Tourism: **SCR 73, SB 275, HB 921, HJR 179.**

State Government: **HB 906, HB 902, HB 896, HB 610, HB 694.**

Transportation: **HB 868.**

Counties and Special Districts: **SB 134, SB 186, SB 199, SB 200, SB 243, SB 274.**

Agriculture and Small Business: **SB 271.**

Representative Turner moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Turner moved that he be recorded as voting "nay" on **SB 68**. Agreed.

Representative Ridley moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ridley moved that his vote be changed from "nay" to "yea" on **HB 807**. Agreed.

Representative Hancock moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hancock moved that his vote be changed from "yea" to "nay" on **HB 558**. Agreed.

Representative Nelson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nelson moved that his vote be changed from "nay" to "yea" on **HB 390**. Agreed.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HJR 137**, by Representative Blevins:

Amend printed copy of **HJR 137** on page 2, line 6, by deleting the word "chairman", and inserting "co-chairmen" in lieu thereof, and by deleting the words "a member" and inserting the word "members" in lieu thereof;

And on page 2, line 7, after the word "Welfare," by inserting "and the Interim Joint Committee on Agriculture and Natural Resources,";

And on page 2, line 19, after the word "Committees;", by inserting the following: "the secretary of the Cabinet for Human Resources; the secretary of the Cabinet for Natural Resources and Environmental Protection; a representative of the Kentucky Resources Council; a representative of the Kentucky Association of Environmental Education; a representative of the Kentucky Society of Professional Engineers;"

And on page 2, line 20, after the word "large", by inserting the word ", one";

And on page 2, line 21, after the word "programs", by inserting the words ", and one with expertise in environmental programs".

Floor Amendment No. 4 to the Committee Substitute to **HB 653**, by Representative Noe:

Amend printed copy of HCS to **HB 653** on page 29, line 3 after "Section 11." insert the following:

"KRS 161.550 is amended to read as follows:

Beginning with July 1, 1990 [~~1988, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all employes of local school districts and the regional educational cooperatives who are members of the retirement system. The state shall, in addition to the above amount, provide an annual contribution of three and one-fourths percent (3.25%) of total salaries of the employes of local school districts who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each~~] ***each*** employer, except ***as provided under KRS 161.555*** [~~local school districts and the regional educational cooperatives,~~] shall contribute annually to the retirement system a permanent amount equal to that contributed by its employees who are members of the retirement system plus an additional three and one-fourths percent (3.25%) of the total of salaries of its employees who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer [~~, except local school districts and the regional educational cooperatives,~~] shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155, ***161.507(3), 161.515, 161.545, 161.620(1), (3), (5), (6), (7) and (8), and 161.712*** [ ~~and 161.230 to 161.716.~~] In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. ***The state shall appropriate funds to the retirement system in the 1992-94 budget to fund any deficit that may occur in the state's obligation to the retirement system during fiscal year 1989-90. Employer*** [~~State~~] contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and such contributions shall be considered deferred compensation to the members.

***Section 12.***";

on page 29, line 15, delete "12" and insert "***13***" in lieu thereof;

on page 31, line 10, delete "13" and insert "***14***" in lieu thereof;

on page 33, line 12, delete "14" and insert "***15***" in lieu thereof;

on page 34, line 6, delete "15" and insert "***16***" in lieu thereof;

on page 38, line 22, delete "16" and insert "***17***" in lieu thereof; and

on page 45, line 11, delete "17" and insert "***18***" in lieu thereof.

Floor Amendment No. 3 to **HB 700**, by Representative Lear:

Amend printed copy of **HB 700** on page 2, line 13, after the word "section", by deleting the words "***and the review of the product of these services***";

On page 3, line 19, after the word "section" by deleting the words "***and the review of the***" and on line 20, by deleting the words, "***product of these services***"; and

On page 4, line 17, by deleting Section 2 in its entirety and renumbering all subsequent sections accordingly.

On page 10, line 19, after the word "***chapter.***" by adding the following:

"***The board shall promulgate the regulations based on input from the Kentucky Society of Professional Engineers, the Kentucky Association of Transportation Engineers, the Consulting Engineers Council of Kentucky, the Kentucky Association of Professional Surveyors and other licensed practitioners. No regulation promulgated hereunder shall take effect with regard to employees of the Commonwealth of Kentucky or any of its agencies prior to July 15, 1992.***"

Floor Amendment No. 1 to **SB 141**, by Representative Brown:

Amend printed copy of **SB 141** on page 6, line 10, after "($10,000)" by inserting:

"***The provisions of this subsection shall not apply to a person who currently has a permit adjacent to the area covered by the alleged violation or who has begun mining operations prior to the issuance of a pending permit application covering the area of the alleged violation.***"

The Clerk announced the following meetings:

Appropriations and Revenue Subcommittee on Human Resources, 2:00 p.m., March 12, 1990.

The Committee on Education, 2:00 p.m., March 12, 1990.

The Committee on Counties and Special Districts, 2:30 p.m., March 12, 1990 in the House Chamber.

### Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 12, 1990.

The motion that the House adjourn until 4:00 p.m., Monday, March 12, 1990 was adopted by voice vote.

## MONDAY, MARCH 12, 1990

## FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. Vance Willett, Ledbetter Baptist Tabernacle, Ledbetter.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Johnson.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 9, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing the passage of **SB 82, SB 132, SB 159, SB 300, SB 318, SB 319, SB 321, SB 331, SB 333, SB 347, SCR 95, HB 352** with Senate Amendment, **HB 391** with Senate Amendments, **HB 453** with Senate Title Amendment, **HB 511** with Senate Amendment, **HB 89, HB 231, HB 297, HB 356, HB 362, HB 371, HB 434, HB 445, HB 470, HCR 4, HCR 9** and **HJR 105**.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 350.**

Appropriations and Revenue: **SB 292.**

Business Organizations and Professions: **SB 290.**

Cities: **SB 17.**

Economic Development and Tourism: **SJR 92, SJR 93.**

Education: **HB 940, SB 341, SB 296, SB 316, SB 334.**.

Energy: **SB 320.**

Judiciary: **SB 329, SB 305, SCR 91.**

State Government: **SB 92, SB 314, SB 112.**

Transportation: **SB 309, SB 336.**

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary: **HB 25.**

Cities: **SB 17.**

### Report of Committees

The Committee on Appropriations and Revenue reported **HB 521** with Committee Substitute attached thereto, and **HB 830** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 521. AN ACT relating to revenue and taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 132.195 is amended to read as follows:

(1) When any real ***property*** [~~estate~~] which for any reason is exempt from taxation is leased to a natural person, association, partnership or corporation in connection with a business conducted for profit, the ***leasehold***

***interest in the*** [~~leased~~] property shall be subject to ***state and local*** taxation ***at the rate applicable to real property levied by each taxing jurisdiction*** [~~in the same amount and to the same extent as though the lessee were the owner of the real estate~~].

(2) Subsection (1) of this section shall not apply to interests in:

(a) Industrial buildings, as defined under KRS 103.200, ***owned*** [~~used~~] and financed by a tax-exempt governmental unit[~~,~~] or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution; or

(d) Vending stand locations and facilities operated by blind persons under the auspices of the department for the blind, regardless of whether the property is owned by the federal, state or a local government.

(3) Taxes shall be assessed to lessees of exempt real ***property*** [~~estate~~] and collected in the same manner as taxes assessed to owners of other real ***property*** [~~estate~~], except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee [~~or user~~] to the state, county, school district, special district or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

The Committee Substitute to **HB 521** is as follows:

**HB 521,** AN ACT relating to revenue and taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 132.195 is amended to read as follows:

(1) When any real ***or personal property*** [~~estate~~] which for any reason is exempt from taxation is leased to a natural person, association, partnership or corporation in connection with a business conducted for profit, the ***leasehold interest in the*** [~~leased~~] property shall be subject to ***state and local*** taxation ***at the rate applicable to real or personal property levied by each taxing jurisdiction*** [~~in the same amount and to the same extent as though the lessee were the owner of the real estate~~].

(2) Subsection (1) of this section shall not apply to interests in:

(a) Industrial buildings, as defined under KRS 103.200, ***owned*** [~~used~~] and financed by a tax-exempt governmental unit[~~,~~] or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution; or

(d) Vending stand locations and facilities operated by blind persons under the auspices of the department for the blind, regardless of whether the property is owned by the federal, state or a local government.

(3) Taxes shall be assessed to lessees of exempt real ***or personal property*** [~~estate~~] and collected in the same manner as taxes assessed to owners of other real ***or personal property*** [~~estate~~], except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee [~~or user~~] to the state, county, school district, special district or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

Section 2. The following KRS section is repealed:

132.193 Assessment of possessory interests in tax-exempt personal property — Lessee's liability.

**HB 830,** AN ACT relating to environmental protection and providing funding therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this Act, "cabinet" shall mean the Natural Resources and Environmental Protection Cabinet.***

*(2) An applicant for a permit to discharge pollutants into waters of the Commonwealth shall be subject to a filing fee by the cabinet in the amount of twenty percent (20%) of the discharge permit fee.*

*(3) An applicant for a permit to discharge pollutants into waters of the Commonwealth shall be subject to a discharge permit fee by the cabinet upon receiving the cabinet's determination that the permit will be issued and the fee shall be equal to the cost of review but shall not exceed the following amounts:*

*(a) Major industry: three thousand two hundred dollars ($3,200);*

*(b) Minor industry: two thousand one hundred dollars ($2,100);*

*(c) Non-process industry: one thousand dollars ($1,000);*

*(d) Large, non-publicly-owned treatment works: one thousand seven hundred dollars ($1,700);*

*(e) Intermediate, non-publicly-owned treatment works: one thousand five hundred dollars ($1,500);*

*(f) Small, non-publicly-owned treatment works: one thousand dollars ($1,000);*

*(g) Agriculture: one thousand two hundred dollars ($1,200); and*

*(h) Surface mining operation: one thousand two hundred dollars ($1,200).*

*(4) The cabinet may impose the maximum fee if a discharge falls into multiple categories.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) A generator of hazardous waste required by KRS Chapter 224 to register with the cabinet shall be subject to an annual registration fee by the cabinet and the fee shall be equal to the cost of review but shall not exceed the following amounts:*

*(a) For one (1) to five (5) waste streams: three hundred dollars ($300);*

*(b) For six (6) to ten (10) waste streams: three hundred fifty dollars ($350);*

*(c) For eleven (11) to fifteen (15) waste streams: four hundred dollars ($400);*

*(d) For sixteen (16) to twenty (20) waste streams: four hundred fifty dollars ($450);*

*(e) For twenty-one (21) to twenty-five (25) waste streams: five hundred dollars ($500);*

*(f) For twenty-six (26) to thirty (30) waste streams: five hundred fifty dollars ($550); and*

*(g) For thirty-one (31) or more waste streams: six hundred dollars ($600).*

*(2) If a generator of hazardous waste submits to the cabinet a registration to modify waste streams, the following fees shall be imposed:*

*(a) For one (1) to five (5) waste streams: fifty dollars ($50);*

*(b) For six (6) to ten (10) waste streams: one hundred dollars ($100);*

*(c) For eleven (11) to fifteen (15) waste streams: one hundred fifty dollars ($150);*

*(d) For sixteen (16) to twenty (20) waste streams: two hundred dollars ($200);*

*(e) For twenty-one (21) to twenty-five (25) waste streams: two hundred fifty dollars ($250);*

*(f) For twenty-six (26) to thirty (30) waste streams: three hundred dollars ($300); and*

*(g) For thirty-one (31) or more waste streams: three hundred fifty dollars ($350).*

*(3) If a generator of hazardous waste submits to the cabinet a registration to modify any information other than its waste streams, it shall be subject to a fee by the cabinet of fifty dollars ($50).*

*(4) The cabinet shall not impose a fee if a generator of hazardous waste modifies a registration by making a name change.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) A petition to delist hazardous waste shall be subject to and accompanied by payment to the cabinet of a two thousand five hundred dollar ($2,500) fee for each hazardous waste petitioned.*

*(2) An applicant seeking to exempt a hazardous constituent or to establish an alternate concentration limit in a hazardous waste treatment, storage, or disposal facility permit shall be subject to a fee by the cabinet equal to the cost of review, after receiving the cabinet's determination that the exemption or alternative will be granted.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) An applicant for a permit to construct or operate a hazardous waste treatment, storage, or disposal facility shall be subject to a filing fee by the cabinet in the amount of twenty percent (20%) of the permit review fee.*

*(2) An applicant for a permit to construct or operate a treatment, storage, or disposal facility shall be subject by the cabinet to a review fee equal to the sum of the unit fees charged for each type of hazardous waste management unit at the facility. The incinerator unit fee shall apply once for each different type of incinerator unit at the facility. The types of incinerator units shall include liquid injection, rotary kiln, fluidized bed and multiple hearth. The tank unit fee shall apply once for each different tank design. Tank design criteria shall include: differences in materials of construction, pressure vessels, nonpressure vessels, shape, and ancillary equipment. The container unit fee shall apply once for each different container type. Container types shall include: drums, tote bins, bottles and roll-off boxes. The unit fees shall be:*

*(a) Incinerator: nineteen thousand four hundred dollars ($19,400);*

*(b) Waste pile: twelve thousand two hundred dollars ($12,200);*

*(c) Surface impoundment: fourteen thousand dollars ($14,000);*

*(d) A tank with a total capacity of seven thousand five hundred (7,500) or more gallons: seven thousand four hundred dollars ($7,400);*

*(e) A tank with a total capacity less than seven thousand five hundred (7,500) gallons: three thousand seven hundred dollars ($3,700);*

*(f) Additional tanks of similar design with a combined capacity greater than seven thousand five hundred (7,500) gallons: four thousand four hundred dollars ($4,400);*

*(g) Additional tanks of similar design with a combined capacity less than seven thousand five hundred (7,500) gallons: one thousand eight hundred fifty dollars ($1,850);*

*(h) A container with a total capacity of five thousand (5,000) or more gallons: six thousand dollars ($6,000);*

*(i) A container with a total capacity less than five thousand (5,000) gallons: three thousand dollars ($3,000);*

*(j) Additional container of similar design with a combined capacity greater than five thousand (5,000) gallons: three thousand dollars ($3,000);*

*(k) Additional container of similar design with a combined capacity less than five thousand (5,000) gallons: one thousand five hundred dollars ($1,500);*

*(l) Land treatment: fifteen thousand eight hundred dollars ($15,800); and*

*(m) Landfill: fifteen thousand dollars ($15,000).*

*(3) The cabinet may subject an applicant seeking a permit to construct or operate a treatment, storage, or disposal facility to a facility assessment fee as follows:*

*(a) One hundred (100) or more solid waste management units: eleven thousand five hundred dollars ($11,500);*

*(b) Sixty (60) to ninety-nine (99) solid waste management units: nine thousand dollars ($9,000);*

*(c) Twenty (20) to fifty-nine (59) solid waste management units: six thousand five hundred dollars ($6,500); or*

*(d) Fewer than twenty (20) solid waste management units: four thousand dollars ($4,000).*

*(4) The cabinet may require an applicant seeking a permit to construct or operate a treatment, storage, or disposal facility to submit an investigation fee or corrective action fee, or both, if the facility includes*

*a facility investigation or corrective action study or plan. The facility investigation fee shall be equal to the cost of the review, but shall not exceed fourteen thousand five hundred dollars ($14,500). The corrective action fee shall be equal to the cost of the review, but shall not exceed twenty-nine thousand dollars ($29,000).*

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) An applicant seeking to modify a permit to construct or operate a hazardous waste treatment, storage, or disposal facility shall be subject to a fee by the cabinet of three hundred dollars ($300) if the cabinet determines that the modification is minor.*

*(2) An applicant seeking to modify a hazardous waste treatment, storage, or disposal facility permit to add one (1) or more waste streams, and a waste stream with the same characteristic is already permitted, shall be subject to a review fee of three hundred dollars ($300) per waste stream proposed to be added. All other applicants to add one (1) or more waste streams shall be subject by the cabinet to a review fee equal to:*

*(a) Tank: three thousand four hundred dollars ($3,400);*

*(b) Surface impoundment: five thousand dollars ($5,000);*

*(c) Waste pile: four thousand five hundred dollars ($4,500);*

*(d) Incinerator: six thousand five hundred dollars ($6,500);*

*(e) Container: two thousand seven hundred dollars ($2,700);*

*(f) Land treatment: five thousand five hundred dollars ($5,500);*

*(g) Landfill: five thousand five hundred dollars ($5,500); and*

*(3) An applicant seeking to modify a permit to construct or operate a hazardous waste treatment, storage, or disposal facility shall be subject to a fee by the cabinet in the following amounts, for the addition or substantial modification of a treatment, storage, or disposal unit:*

*(a) A tank with a total capacity of seven thousand five hundred (7,500) or more gallons, seven thousand four hundred dollars ($7,400);*

*(b) A tank with a total capacity less than seven thousand five hundred (7,500) gallons, three thousand seven hundred dollars ($3,700);*

*(c) A container with a total capacity of five thousand (5,000) or more gallons, six thousand dollars ($6,000);*

*(d) A container with a total capacity less than five thousand (5,000) gallons, three thousand dollars ($3,000);*

*(e) Incinerator, nineteen thousand four hundred dollars ($19,400);*

*(f) Landfill, fifteen thousand dollars ($15,000);*

*(g) Land treatment, fifteen thousand eight hundred dollars ($15,800);*

*(h) Waste pile: twelve thousand two hundred dollars ($12,200); and*

*(i) Surface impoundment: fourteen thousand dollars ($14,000).*

*(4) The incinerator fee provided in subsections (2) and (3) of Section 39 of this Act shall apply once for each different type of incinerator unit at the facility. The types of incinerator units shall include: liquid injection, rotary kiln, fluidized bed, and multiple hearth. The tank fee provided in subsections (2) and (3) of this section shall apply once for each different tank design. Tank design criteria shall include: differences in materials of construction, pressure vessels, nonpressure vessels, shape, and ancillary equipment. The container fee provided in subsections (2) and (3) of this section shall apply once for each different container type. Container types shall include: drums, tote bins, bottles and roll-off boxes.*

*(5) An applicant seeking to modify a facility investigation or corrective action plan for a solid waste management unit at a hazardous waste treatment, storage, or disposal facility shall be subject to a fee by the cabinet, which shall be equal to the cost of review but shall not exceed the following amounts for the specified instance:*

*(a) Facility investigation: fourteen thousand five hundred dollars ($14,500); and*

*(b) Corrective action: twenty-nine thousand dollars ($29,000).*

*(6) An applicant seeking to modify a detection, compliance or corrective action program at a regulated unit of a hazardous waste treatment, storage, or disposal facility shall be subject to a fee by the cabinet, which shall not exceed the following amounts for each specified instance:*

*(a) Change from detection to compliance monitoring: six thousand dollars ($6,000);*

*(b) Change from compliance to corrective action: eight thousand dollars ($8,000); and*

*(c) Modification of detection, compliance, or corrective action program: five thousand dollars ($5,000).*

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) An applicant for a permit to construct an air contaminant source shall be subject to a filing fee by the cabinet of nine hundred seventy-five dollars ($975).*

*(2) An applicant for a permit to operate an air contaminant source or for an exemption shall be subject to a filing fee by the cabinet of six hundred dollars ($600).*

*(3) The filing fee shall apply as a credit toward the construction permit fee, operating permit fee, or exemption fee.*

*(4) An applicant for a permit to construct an air contaminant source shall be subject to a construction permit fee by the cabinet. The construction permit fee shall be comprised of a base fee and a component fee as follows:*

*(a) The base fee shall be equal to the cost of review but shall not exceed ten thousand dollars ($10,000) and;*

*(b) The component fee shall be equal to the sum of the following fees:*

*1. Air quality analysis review, which shall be equal to the cost of review but shall not exceed three hundred and fifty dollars ($350);*

*2. Air quality analysis verification, which shall be equal to the cost of review but shall not exceed one thousand eight hundred forty dollars ($1,840);*

*3. Lowest achievable emission rate, reasonably available control technology or best available control technology determination, which shall be two hundred twenty-five dollars ($225);*

*4. Preconstruction monitoring review, which shall be one thousand six hundred dollars ($1,600);*

*5. Review of an application subject to public participation requirements, which shall be six hundred seventy dollars ($670);*

*6. Review of an application with toxic air pollutants, which shall be equal to the cost of review but shall not exceed ten thousand dollars ($10,000); and*

*7. Review of an application with potentially hazardous material or toxic substances, which shall be sixty dollars ($60).*

*(5) An applicant for a permit to operate an air contaminant source shall be subject to an operating permit fee by the cabinet upon receiving the cabinet's determination that the operating permit will be issued. The fee shall be comprised of a base fee and a component fee, as follows:*

*(a) The base fee shall be equal to the cost of review but shall not exceed ten thousand dollars ($10,000); and*

*(b) The component fee shall be the sum of the following fees:*

*1. Each stack test or equivalent, which shall be one thousand five hundred five dollars ($1,505);*

*2. Air quality analysis review, which shall be equal to the cost of review but shall not exceed three hundred fifty dollars ($350);*

*3. Air quality analysis verification, which shall be equal to the cost of review but shall not exceed one thousand eight hundred forty dollars ($1,840);*

*4. Review of an application subject to public participation requirements, which shall be two hundred sixty dollars ($260);*

*5. Review of an application with toxic air pollutants which were not reviewed for a construction permit, which shall be equal to the cost of review but shall not exceed ten thousand dollars ($10,000); and*

*6. Review of an application with potentially hazardous material or toxic substances, which shall be sixty dollars ($60).*

*(6) An applicant for a duplicate permit to construct or operate an air contaminant source shall be subject to a fee by the cabinet of three hundred dollars ($300).*

*(7) An applicant for a duplicate permit or certification shall be subject to a fee by the cabinet of fifty dollars ($50), upon receipt of the cabinet's compliance determination.*

*(8) An applicant for an exemption shall be subject to an exemption fee by the cabinet, equal to the combined amount of the applicable base fee and the component fee, upon receipt of the cabinet's determination to grant the exemption.*

*(9) An applicant for an amendment to an operating permit for the sole purpose of increasing the throughput limit shall be subject to a fee by the cabinet of five hundred dollars ($500) upon receipt of the cabinet's determination to issue the amended permit.*

*(10) The cabinet may promulgate regulations adopting fees for the cost of administering the air quality program authorized by this chapter, if mandated by the Federal Air Quality Act (Public Law 90-148, as amended).*

SECTION 7. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

*(1) An applicant for a water well driller certification shall be subject to a fee by the cabinet of twenty-five dollars ($25).*

*(2) An applicant to take a water well driller's certification examination shall be subject to a fee by the cabinet of forty dollars ($40).*

*(3) An applicant for a water well driller's certification, upon notification by the cabinet that all requirements have been met for certification, shall be subject to a certification fee by the cabinet of one hundred dollars ($100) for initial certification.*

*(4) An applicant for a water well driller's certificate renewal shall be subject to a renewal fee by the cabinet of one hundred dollars ($100).*

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall implement a time and accounting system to reasonably and accurately document its actual costs.*

*(2) The cabinet shall submit documentation of its costs to the Interim Joint Appropriations and Revenue Committee prior to the cabinet's submittal of its biennial budget request.*

*(3) The cabinet may promulgate regulations amending the fees set forth in this Act. The fees established in the promulgated regulations shall be based on the cabinet's actual costs.*

The Committee Amendment No. 1 to **HB 830** is as follows:

Amend printed copy of **HB 830** on page 15, after line 11 and before line 12, insert the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

*An applicant for a permit issued in accordance with the provisions of KRS 350.060 on property owned by the Commonwealth of Kentucky and used as a research facility shall be subject by the cabinet to a fee of one-hundred thousand dollars ($100,000) per acre for preparation of an environmental impact statement. The environmental impact statement shall include a detailed statement, prepared pursuant to the guidelines specified in the National Environmental Policy Act (P.L. 91-190 as amended)."*

On page 15, line 12, delete "SECTION 8." and insert in lieu thereof "SECTION 9.".

The Committee on Appropriations and Revenue reported **SB 148** and **SB 228** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**SB 148**, AN ACT relating to income taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) For tax years beginning on or after January 1, 1982, except as otherwise provided in this section, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1985, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee; and

(e) Exclude social security and tier I railroad retirement benefits subject to federal income tax;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year; and

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, ***minus the deduction allowed by Section 2 of this Act and*** minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 and by section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section ***minus the deduction allowed by Section 2 of this Act and*** minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and

(e) Exclude expenses related to "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in section 528(c) of the Internal Revenue Code, means "taxable income" as defined in section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year

under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in section 3401(f) and section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***(1) In computing net income under the provisions of KRS 141.010(11) or 141.010(13), there shall be allowed as a deduction the value of leasehold interest of property contributed to a charitable organization if the leased property is to be used by the charitable organization to provide temporary living quarters for a homeless family, if:***

***(a) The homeless family has demonstrated a need for a fixed, regular and adequate night time residence; and***

***(b) The contribution of a leasehold interest in a dwelling for any term to be used by the donee to provide living quarters does not exceed one (1) year for a homeless family selected by the donee.***

***(2) The leasehold interest of property contributed as described in subsection 1 of this section shall be allowed as a deduction for each taxable year of the donor during which the donee holds the interest. The deduction allowed shall be the value of the interest computed on a monthly basis, multiplied by the number of months in the taxable year during which the dwelling:***

***(a) Meets all habitability standards prescribed by the state or political subdivision thereof in which the dwelling is located; and***

***(b) Is occupied for a substantial portion of the month by a homeless family selected by the donee.***

***(3) The value of a leasehold interest of property contributed as described in subsection (2) of this section shall be the lesser of:***

***(a) The established rental value of the subject property if the property has been leased during one (1) or more of six (6) months immediately preceding the date of the contribution, or;***

***(b) The fair market rental value of other property of similar size and condition in the same general location as the subject property.***

***(4) The provisions of this section shall be effective for tax years beginning on or after January 1, 1990.***

SB 228, AN ACT relating to justices and judges of the Court of Justice.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

***In addition to the salary provided for in KRS 64.485 as adjusted by salary increments the General Assembly***

***may from time to time provide, the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, the chief regional circuit judges and the chief regional district judges shall receive the following salary supplements payable out of the State Treasury per annum establishing a total salary differential of: five thousand dollars ($5,000), Chief Justice, Supreme Court; three thousand dollars ($3,000), Chief Judge, Court of Appeals; and one thousand dollars ($1,000), chief regional circuit and district judges over other justices and judges of their courts respectively.***

Section 2. The salary supplements provided for in Section 1 of this Act do not apply to the current terms of office of the Chief Justice of the Supreme Court, Chief Judge of the Court of Appeals, and chief regional circuit and district judges. The salary supplements shall begin with the next succeeding term of office of the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, and the chief regional circuit and district judges.

The Committee on State Government reported **HB 278, HB 279, HB 280, HB 447, HB 576, HB 578, HB 588** with Committee Substitute attached thereto, **HB 592** with Committee Amendment attached thereto, **HB 648, HB 650, HB 682** with Committee Amendment attached thereto, **HB 683** with Committee Amendment attached thereto, **HB 686** with Committee Substitute attached thereto, **HB 699, HB 746** with Committee Substitute attached thereto, **HB 762, HB 763, HCR 50** and **HJR 174** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 278,** AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby confirms Executive Order 89-565 which reorganized the Department for Employment Services within the Cabinet for Human Resources as follows:

(1) The Office of Commissioner, Division of Administrative and Financial Management, Division of Unemployment Insurance and Division of Field Services are reaffirmed.

(2) The Division of Job Training is renamed the Division of Training and Employment.

(3) The Division of Veterans Employment Services is abolished and its responsibilities are transferred to the Office of the Commissioner of Employment Services.

(4) The Weatherization Program is transferred from the Department for Employment Services to the Department for Social Insurance.

Section 2. The General Assembly confirms Executive Order 89-565 to the extent it is not otherwise confirmed by this Act.

**HB 279,** AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby confirms Executive Order 89-563 by which the Guardianship Program is transferred from the Office of the Ombudsman to the Department for Social Services within the Cabinet for Human Resources and the Clinical Research Center Project is transferred from the Department for Mental Health/Mental Retardation to the Department for Social Services within the Cabinet for Human Resources.

**HB 280,** AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby confirms Executive Order 89-562 which reorganizes the Department for Medicaid Services within the Cabinet for Human Resources as follows:

(1) Creates the Division of Program Development and Budget.

(2) Creates the Division of Program Services to replace the Division of Policy and Provider Services which is abolished.

(3) Creates the Division of Reimbursement Operations to replace the Division of Reimbursement and Contracts which is abolished.

(4) Creates the Division of Patient Access and Assessment to replace the Division of Quality Standards and Program Review which is abolished.

**HB 447,** AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, [~~(~~]including the position of probation and parole officer[~~)~~], active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section***, but the Kentucky State Police shall request hazardous duty coverage for their auditors for special investigations***. Upon request, each employer shall certify to the board, in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. ***The*** [~~Such~~] rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, ***the*** [~~then said~~] employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. ***If*** [~~Should~~] the employer ***elects*** [~~elect~~] not to make the additional payment, [~~then~~] the employee may make the lump sum payment in his own behalf. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) ***If there is*** [~~In the event of~~] doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

**HB 576,** AN ACT relating to surplus public property.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 42.024 is amended to read as follows:

(1) The division of accounts shall perform such financial record keeping functions as the secretary directs and shall in general be responsible for and perform the functions of the cabinet as outlined in KRS 45.305 and 48.800, and other related statutes.

(2) The division of purchases shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection

with the construction, renovation and repair of state-owned buildings. The division of purchases shall be responsible for the control of all state-purchased personal property and for the disposition of all [~~state-purchased~~] personal property ***of the state*** declared surplus. ***The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.***

***(3) The secretary of the Finance and Administration Cabinet may establish, charge and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the division of purchases.***

Section 2. The division of surplus property in the Department of Education is abolished and all funds, property, personnel and equipment of the division are transferred to the Finance and Administration Cabinet. The Superintendent of Public Instruction, the secretary of the Finance and Administration Cabinet, and the commissioner of the Department of Personnel shall take all action necessary and appropriate to effect such transfers.

Section 3. The following KRS section is repealed:

156.022 Division of surplus property.

**HB 578,** AN ACT relating to property valuation administration.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 132.385 is amended to read as follows:

(1) The Revenue Cabinet shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and Revenue Cabinet employees. Courses may be created and taught by Revenue Cabinet personnel or the cabinet may adopt specific courses offered by appropriate professional organizations.

(2) The Revenue Cabinet shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and Revenue Cabinet employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration.

***(3) Any property valuation administrator awarded the "senior Kentucky assessor" (SKA) designation shall receive a five percent (5%) salary increase as of the following January 1. Those property valuation administrators awarded the "senior Kentucky assessor" (SKA) designation prior to January 1, 1991, shall receive the salary increase effective January 1, 1991.***

Section 2. KRS 132.597 is amended to read as follows:

(1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the state treasury in monthly installments of three hundred dollars ($300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

(2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.

(3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted by the Revenue Cabinet. Any

property valuation administrator failing to meet the cabinet's requirements for any calendar year shall not receive the three thousand six hundred dollar ($3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.

***(4) The annual requirement for participation in classroom instruction shall be reduced to fifteen (15) hours for any property valuation administrator awarded the "senior Kentucky assessor" (SKA) professional designation in accordance with the provisions of KRS 132.385.***

**HB 588,** AN ACT relating to escheats.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 393.110 is amended to read as follows:

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the cabinet with respect to the property annually as of July 1. The report shall be filed in the office of the cabinet on or before September 1 of each year for the preceding July 1. The report shall include:

(a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim therefor within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the cabinet;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the cabinet prescribes by administrative regulations necessary for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the cabinet, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days ***the*** [~~said~~] copy on the courthouse door or the courthouse bulletin board, and also to publish ***the*** [~~said~~] copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately ***certify*** [~~certifying~~] in writing to the cabinet the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and ***the*** [~~such~~] posting and publishing shall be constructive notice to all interested parties.

(2) Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the cabinet shall mail notice to each person having an address listed therein who appears to be entitled to property presumed abandoned under this chapter; except the cabinet shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] or less. The notice shall contain:

(a) A statement that according to a report filed with the cabinet properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the cabinet to whom all further claims ***shall*** [~~must~~] be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, between November 1 and November 15 of each year, turn over to the cabinet all property so reported; but if the person making the report or the owner of the property shall certify to the cabinet that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist

or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut ***the*** [~~such~~] presumption, [~~then,~~] the person reporting or holding the property shall not be required to turn the property over to the cabinet except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding ***the*** [~~such~~] property shall be under no duty while any such action is pending to turn the property over to the cabinet~~,~~ but shall have the duty of notifying the cabinet of the pendency of ***the*** [~~such~~] action.

(4) The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover ***the*** [~~such~~] property as is presumed abandoned whether it has been reported or not and may include in one (1) petition all ***the*** [~~such~~] property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

The Committee Substitute to **HB 588** is as follows:

**HB 588**, AN ACT relating to escheats.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 393.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Banking organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state;

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank or investment company, engaged in business in this state;

(d) "[~~Life~~] Insurance corporation" means any corporation or association transacting within this state the business of insurance on the lives***, health or annuities*** of persons or insurance ***on property, liability or surety*** [~~appertaining thereto, including, but not by way of limitation, endowments and annuities~~];

(e) "Claim" means to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved;

(f) "***Secretary*** [~~Commissioner~~]" means the ***secretary*** [~~commissioner~~] of revenue;

(g) "***Cabinet*** [~~Department~~]" means the [~~Department of~~] Revenue ***Cabinet***;

(h) "Person" means any individual, ***state, federal or other government or political subdivision,*** state or national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee or liquidating agent***;***

***(i) "Finder" means any individual who, for a fee, acts as agent on behalf of a claimant of property reported as abandoned.***

(2) [~~This chapter does not apply to bonds of counties, cities, school districts or other tax levying subdivisions of this state or to any money, funds or other intangible property at any time held or owing for any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining.~~] The provisions of this paragraph shall be effective retroactively to all such moneys, funds or other intangible property held or owing by any person on June 1, 1960, or thereafter.

Section 2. KRS 393.020 is amended to read as follows:

If any ***personal*** property having a situs in this state has been devised or bequeathed to any person and is not claimed by that person or by his heirs, distributees or devisees within ***five (5)*** [~~eight (8)~~] years after the death of the testator, or if the owner of any property having a situs in this state dies without heirs or distributees entitled to it and without disposing of it by will, it shall vest in the state, subject to all legal and equitable demands. Also, any ***personal*** property abandoned by the owner, except a perfect title to a corporeal hereditament, shall vest in the state, subject to all legal and equitable demands. Any property that vests in the state under this section shall be liquidated, and the proceeds, less costs, fees and expenses incidental to all legal proceedings of the liquidation shall be paid to the ***cabinet*** [~~department~~].

Section 3. KRS 393.030 is amended to read as follows:

(1) The personal representative of a person, any part of whose property is not distributed by will, and who died without heirs or distributees entitled to it shall settle their accounts within one (1) year after qualifying, and pay to the ***cabinet*** [~~department~~] the proceeds of all personal property, first deducting the proper legal liabilities of the estate.

(2) If the whole personal property cannot be settled and the accounts closed within one (1) year, the settlement as far as practicable, shall then be made and the proceeds paid to the ***cabinet*** [~~department~~], and the residue shall be settled and paid as soon thereafter as can be properly done.

(3) The personal representative shall take possession of the real property of the decedent not disposed of by his will, and rent it out from year to year until it is otherwise legally disposed of, and pay the net proceeds to the ***cabinet*** [~~department~~].

(4) The personal representative shall also make out and transmit to the ***cabinet*** [~~department~~] a description of the quantity, quality, and estimated value of the real property and its probable annual profits.

Section 4. KRS 393.040 is amended to read as follows:

If any devisee or legatee, or his heir, devisee or distributee, has failed for ***five (5)*** [~~eight (8)~~] years to claim his legacy or devise, the personal representative of the testator, or other person possessing it shall, after deducting the legal liabilities thereon, pay and deliver it, and the net profits from it to the ***cabinet*** [~~department~~].

Section 5. KRS 393.050 is amended to read as follows:

When a person owning any property having a situs in this state is not known to be living for ***five (5)*** [~~seven (7)~~] successive years, and neither he nor his heirs, devisees or distributees can be located or proved to have been living for ***five (5)*** [~~seven (7)~~] successive years, he shall be presumed to have died without heirs, devisees or distributees, and his property shall be liquidated and the proceeds, less costs incident to the liquidation and any legal proceedings, and the liabilities which have been properly claimed and approved against it, shall be paid to the ***cabinet*** [~~department~~].

Section 6. KRS 393.060 is amended to read as follows:

The following property held or owing by a banking or financial organization is presumed abandoned:

(1) Any deposit, [~~(~~]legal, beneficial, equitable or otherwise,[~~)~~] payable on demand in any bank or trust company in this state, together with the interest thereon, unless the owner has within ***five (5)*** [~~ten (10)~~] years:

(a) Negotiated in writing with the bank or trust company concerning it;

(b) Been credited with interest on the passbook or certificate of deposit on his request;

(c) Had a transfer, disposition of interest or other transaction noted of record in the books or records of the bank or trust company; or

(d) Increased or decreased the amount of the deposit;

(2) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders and traveler's checks, ***which have*** [~~that with the exception of traveler's checks has~~] been outstanding for more than ***five (5)*** [~~ten (10)~~] years from the date it was payable, or from the date of its issuance if payable on demand, [~~or, in the case of traveler's checks that has been outstanding for more than fifteen (15) years from the date of its issuance~~] unless the owner has within ***five (5)*** [~~ten (10)~~] years [~~or within fifteen (15) years in the case of traveler's checks~~] corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization;

(3) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than ***five (5)*** [~~ten (10)~~] years from the date on which the lease or rental period expired.

Section 7. KRS 393.062 is amended to read as follows:

(1) "Unclaimed funds," as used in this section, means all moneys held and owing by any [~~life~~] insurance corporation unclaimed and unpaid for more than ***five (5)*** [~~seven (7)~~] years after the moneys became due and payable as established from the records of the corporation under any contract which has matured or terminated.

***An*** [~~A life~~] insurance policy not matured by actual proof of the death of the insured ***or any other insurance policy shall be*** [~~is~~] deemed to be matured and the proceeds thereof ***shall be*** [~~are~~] deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding ***five (5)*** [~~seven (7)~~] years, (a) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (b) corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation ***shall be*** [~~are~~] deemed due and payable although the policy or contract has not been surrendered as required.

(2) Unclaimed funds, as defined in this section, held and owing by ***an*** [~~a life~~] insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it ***shall be*** [~~is~~] presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of corporation.

Section 8. KRS 393.064 is amended to read as follows:

Any stock or other certificate of ownership ***including underlying shares***, or any dividend, profit, distribution, interest, payment or principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within ***five (5)*** [~~seven (7)~~] years after the date prescribed for payment or delivery, ***shall be*** [~~is~~] presumed abandoned if:

(1) It is held or owing by a business association organized under the laws of or created in this state; or

(2) It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

Section 9. KRS 393.066 is amended to read as follows:

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person ***shall be*** [~~is~~] presumed abandoned unless the owner has, within ***five (5)*** [~~seven (7)~~] years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or

(2) If it is held by a business association doing business in this state, or any agent or fiduciary acting for or under contract with a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by any other person.

Section 10. KRS 393.068 is amended to read as follows:

(1) All tangible personal property or intangible personal property, including choses in action in amounts certain, and all debts owed or entrusted funds or other property held by the federal government or any federal agency, or any officer, or appointee thereof, shall be presumed abandoned in this state if the last known address of the owner of the property is in this state and the property has remained unclaimed for five years.

(2) The federal government or any federal agency thereof which pays or delivers abandoned property to the ***cabinet*** [~~department~~] under this section ***shall be*** [~~is~~] relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

(3) The federal government or any federal agency thereof may deduct from the amounts to be paid or delivered to the ***cabinet*** [~~department~~] the proportionate share of the actual and necessary costs of examining records and reporting such information.

Section 11. KRS 393.070 is amended to read as follows:

Any deposit, [~~(~~]legal, beneficial, equitable or otherwise,[~~)~~] other than those payable on demand in any bank or trust company in this state, together with the interest thereon shall be presumed abandoned unless the owner has, within ***five (5)*** [~~twenty-five (25)~~] successive years next preceding the date as of which reports are required by KRS 393.110:

(1) Negotiated in writing with the bank or trust company concerning it;

(2) Been credited with interest on the passbook or certificate of deposit on his request;

(3) Had a transfer, disposition of interest or other transaction noted of record in the books or records of the bank or trust company; or

(4) Increased or decreased the amount of the deposit.

Section 12. KRS 393.080 is amended to read as follows:

The following funds held or owing ***shall be*** [~~are~~] presumed abandoned:

(1) Any deposit of money, stocks, bonds or other credits made to secure payment for services rendered or to be rendered, or to guarantee the performance of services or duties, or to protect against damage or harm, and the increments thereof, unless claimed by the person entitled thereto within ***five (5)*** [~~seven (7)~~] years after the occurrence of the event that would obligate the holder or depository to return it or its equivalent.

(2) Any sum which a public utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than ***five (5)*** [~~seven (7)~~] years after the date it became payable in accordance with the final determination or order providing for the refund.

SECTION 13. A NEW SECTION OF KRS 393.080 TO 393.090 IS CREATED TO READ AS FOLLOWS:

***(1) All intangible property, including but not limited to any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within five (5) years after the date prescribed for payment or delivery, shall be presumed abandoned and subject to the custody of this state as unclaimed property if:***

***(a) The last known address of the owner is unknown; and***

***(b) The person or entity originating or issuing the intangible property in this state or any political subdivision of this state, or is incorporated, organized or created in this state.***

***(2) The provisions of subsection (1) of this section shall not apply to property which is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (1) of this section.***

***(3) The provisions of subsection (1) of this section shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.***

Section 14. KRS 393.090 is amended to read as follows:

Except as otherwise provided in KRS 393.010, all intangible property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state by any person and has remained unclaimed by the owner for more than ***five (5)*** [~~seven (7)~~] years after it became payable or distributable ***shall be*** [~~is~~] presumed abandoned.

Section 15. KRS 393.110 is amended to read as follows:

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the cabinet with respect to the property annually as of July 1. The report shall be filed in the office of the cabinet on or before ***July*** [~~September~~] 1 of each year [~~for the preceding July 1~~]. The report shall include:

(a) [~~Except with respect to travelers' checks and money orders,~~] The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] or more presumed abandoned under this chapter and in the case of unclaimed funds of [~~life~~] insurance corporations the full name of the insured or annuitant and his last known address according to the records of the [~~life~~] insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim therefor within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the cabinet;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the cabinet prescribes by administrative regulations necessary for the administration of this chapter.

***The report shall be signed by a representative of the holder and shall be as a sworn statement that the holder has completed a good faith effort to locate the owners.*** The report shall be made in duplicate; the original shall be retained by the cabinet, and the copy ***or a facsimile*** shall be mailed to the ***largest newspaper of general circulation in*** [~~sheriff of~~] the county where the property is located or held. ***The copy shall be published in accordance with*** [~~It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days said copy on the courthouse door or the courthouse bulletin board, and also to publish said copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of twenty-five dollars ($25) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of~~] KRS Chapter 424. The cost of the publication shall be paid by the state. [~~The sheriff shall immediately certify in writing to the cabinet the dates when the list was posted and published.~~] The list shall be [~~posted and~~] published as required on or before October 1 of the year when it is made, and [~~such posting and~~] publishing shall be constructive notice to all interested parties.

(2) Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the cabinet shall mail notice to each person having an address listed therein who appears to be entitled to property presumed abandoned under this chapter; except the cabinet shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] or less. The notice shall contain:

(a) A statement that according to a report filed with the cabinet properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the cabinet to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, between ***January 1 and January 15*** [~~November 1 and November 15~~] of each year, turn over to the cabinet all property so reported; but if the person making the report or the owner of the property shall certify to the cabinet that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut such presumption, then, the person reporting or holding the property shall not be required to turn the property over to the cabinet except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding such property shall be under no duty while any such action is pending to turn the property over to the cabinet, but shall have the duty of notifying the cabinet of the pendency of such action.

(4) The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover such property as is presumed abandoned whether it has been reported or not and may include in one (1) petition all such property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

***(5) Beginning January 1, 1991, any savings resulting from eliminating the need to advertise accounts under one hundred dollars ($100) shall be applied toward the collection of unclaimed funds currently not being reported.***

***(6) Beginning July 1, 1991, new revenues collected as a result of enhanced collection efforts required***

***by subsection (5) of this section shall be transferred to the Kentucky Historical Society for projects dedicated to the preservation of Kentucky history.***

Section 16. KRS 393.120 is amended to read as follows:

(1) Tangible personal property ***remitted*** [~~required by KRS Chapter 393 to be liquidated in order to permit payment~~] to the ***cabinet*** [~~department~~] shall be delivered to the master commissioner of the county in which such property is located. The master commissioner shall within a reasonable time advertise the property for sale in accordance with KRS Chapter 424 and shall sell it at public auction to the highest bidder. The master commissioner shall pay to the ***cabinet*** [~~department~~] the proceeds of such sale, less costs incidental to the liquidation or any legal proceedings, and any liabilities against the property which have been properly claimed and approved.

(2) [~~For~~] Intangible personal property ***remitted*** [~~required by KRS Chapter 393 to be liquidated so as to permit payment~~] to the ***cabinet shall be delivered to the Office of Investment and Debt Management*** [~~department, the department shall require the agencies or holders of abandoned intangible personal property~~] to sell or dispose of the property on a given date at the quoted market value in the case of property listed in recognized market exchanges, or, in the case of property not listed in a recognized market exchange, at a price recommended by the ***Office for Investment and Debt Management*** [~~department~~] or at the highest price offered at a public sale, whichever is greater. In the event that the intangible property is of a nature such that there is not a readily available market, the ***Office for Investment and Debt Management*** [~~department~~] may offer the property to the highest bidder at public sale at Frankfort, or in whatever city in the state affords, in its judgment, the most favorable market for the particular property involved. If a sale is required to permit payment to the ***cabinet*** [~~department~~], the ***Office for Investment and Debt Management*** [~~department~~] may decline the highest bid and reoffer the property for sale if it considers the price offered insufficient. The sale shall be advertised by publication pursuant to KRS Chapter 424 in the county where the property was found or abandoned, and in the county where the sale is to be made. The sale shall be held at the courthouse door.

Section 17. KRS 393.130 is amended to read as follows:

***(1)*** Upon the payment or delivery of abandoned property to the ***cabinet*** [~~department~~], the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the ***cabinet*** [~~department~~] under this chapter ***shall be*** [~~is~~] relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

***(2)*** Any holder [~~of deposits or any life insurance company~~] who has paid moneys to the ***cabinet*** [~~department~~] pursuant to this chapter shall make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the ***cabinet*** [~~department~~] shall [~~forthwith~~] reimburse the holder [~~or company~~]. Notwithstanding the provisions of KRS 393.140, posting or advertising ***shall*** [~~is~~] not ***be*** required in the event payment is made to persons entitled thereto by holders [~~of deposits of life insurance companies~~] in compliance with this section. [~~The claim shall be paid without deduction for the cost of advertising or services provided in KRS 393.115.~~]

Section 18. KRS 393.140 is amended to read as follows:

(1) Any person***, as an heir or descendent,*** claiming an interest in any property paid or surrendered to the state in accordance with ***this chapter*** [~~KRS 393.020 to 393.050~~] who was not actually served with notice, and who did not appear, and whose claim was not considered during the action or at the proceedings that resulted in its payment to the state, may[~~, within five (5) years after the judgment,~~] file his claim to it with the ***cabinet*** [~~department~~].

(2) [~~Any person claiming an interest in any estate or property paid or surrendered to the state in accordance with KRS 393.060 to 393.120, that was not subsequently adjudged under the procedure set out in KRS 393.230 to have been actually abandoned, or owned by a decedent who had no heir, distributee, devisee or other person entitled under the laws of this state relating to wills, descent and distribution to take the legal or equitable title, may file his claim to it at any time after it was paid to this state.~~

~~(3)~~] The claimant shall[~~, within fifteen (15) days after filing any claim permitted under this section in excess of twenty-five dollars ($25),~~] publish notice of the claim pursuant to KRS Chapter 424 in the county in which the property was held before being transferred to the state. If the claim is for ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] or less, the claimant shall post ***notice of the claim*** at the courthouse door [~~and three (3) other conspicuous places in that county,~~] and shall file proof of publication or posted notice with the ***cabinet*** [~~department~~]. [~~No such claim shall be allowed until fifteen (15) days after proof of the notice is received by the department at its offices in Frankfort.~~]

***(3) Any person claiming an interest in any property paid or surrendered to the cabinet in his own name under this chapter may file his claim to it at any time after it was paid to the state.***

Section 19. KRS 393.150 is amended to read as follows:

The ***secretary*** [~~commissioner~~] shall consider any claim or defense permitted to be filed before the ***cabinet*** [~~department~~] and hear evidence concerning it. If the claimant establishes his claim, the ***secretary*** [~~commissioner~~] shall, ***after sixty (60) days have passed from the date the claim was received by the cabinet*** [~~when the time for appeal or further legal procedure has expired~~], authorize payment to him of a sum equal to the amount paid into the State Treasury in compliance with this chapter. The decision shall be in writing and shall state the substance of the evidence heard by the ***secretary*** [~~commissioner~~], if a transcript is not kept. The decision shall be a matter of public record.

Section 20. KRS 393.160 is amended to read as follows:

Any person dissatisfied with the decision of the ***secretary*** [~~commissioner~~] may, within sixty (60) days, appeal from it to the Franklin Circuit Court or file an action in that court to vacate the decision. In either event the proceedings shall be de novo, and no transcript of the record before the ***secretary*** [~~commissioner~~] shall be required to be kept unless requested by the claimant. In such proceeding the ***secretary*** [~~commissioner~~] shall be made a party defendant, and all other persons required by law to be made parties in actions in rem or quasi in rem shall be made parties. Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure. Upon an appeal, the state shall not be required to make a supersedeas bond. The provisions of this section relating to the decision of the ***secretary*** [~~commissioner~~] and appeals therefrom shall also apply to a decision of the ***secretary*** [~~commissioner~~] rendered under authority of KRS 393.110.

Section 21. KRS 393.170 is amended to read as follows:

Whenever any property ***unclaimed*** [~~escheated~~] under this chapter by reason of actual abandonment, or death or presumption of death of the owner without leaving any person entitled to take the legal or equitable title under the laws of this state relating to wills, or descent and distribution, has been deposited with, or in the custody or under the control of, any federal court in and for any district in this state, or in the custody of any depository, clerk or other officer of such court, or has been surrendered by such court or its officers to the United States Treasury, the Circuit Court of any county in which such federal court sits shall have jurisdiction to ascertain whether an escheat has occurred, and to enter a judgment of escheat in favor of the state. ***The provisions of this section notwithstanding, the state may elect to take custody of such unclaimed property by instituting a proceeding pursuant to KRS 393.230(1)*** [~~This section does not authorize a judgment to require such courts, officers, agents or depositories to pay or surrender funds to this state on a presumption of abandonment as provided in KRS 393.060 to 393.110~~].

Section 22. KRS 393.180 is amended to read as follows:

Any legal proceeding to enforce ***the provisions of this chapter*** [~~KRS 393.020 to 393.050~~] and to recover any sum due the state thereunder shall be instituted, on the relation of the ***secretary*** [~~commissioner~~], by the county attorney of the county in which any such property is located. The petition and all necessary pleadings shall be sent to the ***secretary*** [~~commissioner~~] for his signature and approval. The petition shall be accompanied by an affidavit of the county attorney, stating the facts on which it is based. For all other pleadings, there shall be a statement by the county attorney of the reason for the particular pleading.

Section 23. KRS 393.190 is amended to read as follows:

On any action filed by a county attorney under the provisions of this chapter, the assistant Attorney General provided for in KRS 15.105 shall offer assistance and suggestions to the county attorney in the preparation of the petition or any pleadings, and revise and correct them as he considers necessary, subject to the ultimate approval of the ***secretary*** [~~commissioner~~], when he is required to sign them.

Section 24. KRS 393.200 is amended to read as follows:

If the county attorney declines to perform the duties imposed upon him by this chapter, they may be performed by the ***secretary*** [~~commissioner~~]. When he considers it to the best interest of the state, the ***secretary*** [~~commissioner~~] may institute any action authorized by this chapter to be brought by the county attorney, or join the county attorney in the active prosecution of any such action.

Section 25. KRS 393.210 is amended to read as follows:

If the property of a person coming within the purview of ***this chapter*** [~~KRS 393.020 to 393.050~~] is located in two or more counties, all the property may be included in one action. The county attorneys of all counties in which such property is located may join in the prosecution of the proceeding.

Section 26. KRS 393.220 is amended to read as follows:

Pending the outcome of an action, the court may make such disposition of the [~~land or~~] tangible personal property involved as it considers best from the standpoints of use, rents, interest and profits. If the use of the property is given to the claimant by the court, he shall be held accountable for returns and profits arising from it if the state is successful in the proceeding.

Section 27. KRS 393.230 is amended to read as follows:

(1) If any person or the agent of any court refuses to pay or surrender intangible property to the ***cabinet*** [~~department~~] as provided in KRS 393.060 to 393.110, [~~an equitable~~] proceeding may be brought ***in the name of the state*** on the relation of the ***secretary*** [~~commissioner~~] to force payment or surrender. All property subject to KRS 393.060 to 393.110 may be listed and included in a single action.

(2) If any intangible property is turned over to the ***cabinet*** [~~department~~] on presumption of abandonment, in accordance with KRS 393.060 to 393.120, the ***secretary*** [~~commissioner~~] may at any subsequent time institute proceedings to establish conclusively that it was actually abandoned, or that the owner has died and there is no person entitled to it.

Section 28. KRS 393.240 is amended to read as follows:

(1) If any person has property coming within the purview of KRS 393.020 to 393.050, and also of KRS 393.060 to 393.110, the actions required to be brought by the county attorney and the ***secretary*** [~~commissioner~~] may be joined, but joinder ***shall*** [~~is~~] not ***be*** required, and if separate actions are brought, they shall not be considered as coming within the rule against splitting a cause of action. The county attorney ***shall*** [~~is~~] not ***be*** charged with the duty of enforcing sections KRS 393.060 to 393.120, 393.150 or 393.160.

(2) The procedure for all actions under this chapter shall be filed as equity actions and follow the procedure provided by the Rules of Civil Procedure, unless otherwise provided in this chapter.

Section 29. KRS 393.250 is amended to read as follows:

(1) Any necessary expense required to be paid by the state in administering and enforcing this chapter shall be paid out of ***receipts of unclaimed property paid*** [~~appropriations made~~] to the ***cabinet*** [~~department~~].

(2) The county attorney shall act as agent of the ***cabinet*** [~~department~~] for the collection of all judgments recovered in actions prosecuted by him under this chapter. He shall promptly remit the judgment recovered to the ***cabinet*** [~~department~~] with such information relating thereto as the ***cabinet*** [~~department~~] requires.

Section 30. KRS 393.260 is amended to read as follows:

***(1)*** Any action brought by the state under this chapter shall be brought within fifteen (15) years from June 12, 1940, or from the time when the cause of action accrued, whichever is the later date.

***(2) Notwithstanding subsection (1) of this section or any other provision of law, the expiration of any period of time specified by law during which an action or proceeding may be commenced or enforced to secure payment of a claim for money or recovery of property shall not serve as a defense in any action or proceeding brought by or on behalf of the secretary against any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof for the payment or delivery of any abandoned property to the secretary pursuant to this chapter or to enforce or collect any penalty provided by this chapter.***

***(3) The provisions of subsection (2) of this section shall apply to all abandoned property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.***

Section 31. KRS 393.280 is amended to read as follows:

(1) The ***cabinet*** [~~department~~], through its employees, may examine all records of any person where there is reason to believe that there has been or is a failure to report property that should be reported under this chapter.

(2) The ***secretary*** [~~commissioner~~] may promulgate any reasonable and necessary ***administrative regulations*** [~~rules~~] for the enforcement of this chapter, and govern hearings held before him. He may delegate in writing to any regular employee of the ***cabinet*** [~~department~~] authority to perform any of the duties imposed on him by this chapter, except the promulgation of ***administrative regulations*** [~~rules~~].

***(3) Any person, banking organization, insurance company, financial organization or business association***

***who fails to supply the information or to remit the unclaimed property as required under KRS 393.110 shall be assessed an amount equal to twenty-five percent (25%) of the value of unclaimed property found to be due. In addition, interest shall be assessed on the unpaid amount at the tax interest rate as defined in KRS 131.010(6).***

Section 32. KRS 393.290 is amended to read as follows:

(1) The ***cabinet*** [~~department~~] may require the production of reports, or the surrender of property as provided in this chapter by civil action, including an action in the nature of a bill of discovery, in which case the defendant shall pay a penalty equal to ten percent (10%) of all amounts that he is ultimately required to surrender. This penalty shall not exceed five hundred dollars ($500).

(2) Any person who in good faith contests the applicability of this chapter to him may be relieved of the threat of any penalty by posting a compliance bond in an amount and of surety sufficient to the court.

SECTION 33. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

***(1) Finders shall provide to the cabinet written authorization from the claimant of abandoned property to represent that claimant in all matters relative to the claim.***

***(2) Finders may represent claimants for a fee not exceeding thirty percent (30%) of the value of the abandoned property represented by the claim.***

Section 34. The following KRS section is repealed:

393.115 Advertising expenses.

**HB 592**, AN ACT relating to the General Assembly.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

***(1) There is created a committee of the Legislative Research Commission called the Committee on Retirement and Pensions. This committee, in its various forms, shall serve as a subcommittee of the Legislative Research Commission during periods between sessions of the General Assembly, and as a joint committee of the House of Representatives and the Senate when the General Assembly is in session.***

***(2) (a) During periods between General Assembly sessions, the committee shall be composed of two (2) members of the Senate and three (3) members of the House of Representatives chosen by the Legislative Research Commission; the general manager of Kentucky Retirement Systems; the executive secretary of the Teachers' Retirement System; the executive secretary of the Judicial Form Retirement System; and five (5) members appointed by the Legislative Research Commission who shall include a citizen expert in the employee benefit field, a representative of the several state employee associations, a representative of the public school teachers, a representative of local government employees covered by the County Employees Retirement System and either a former state legislator or a former judge or justice of the Court of Justice. The members appointed by the Legislative Research Commission shall serve until January 1, 1993. Thereafter two (2) year appointments to the committee shall be made. Members of the committee may be reappointed, and all appointments shall be made by the Legislative Research Commission. The executive officers of the respective retirement systems shall serve concurrently with their tenure as executive officers of their respective retirement systems. The members of the committee shall select their chairman from among the legislative members of the committee.***

***(b) During sessions of the General Assembly, committee membership shall be limited to the five (5) members of the General Assembly.***

***(3) Committee members who are members of the General Assembly shall be compensated for committee activity and reimbursed for expenses in the same manner as for other legislative responsibilities. Committee members who are state employees or from the private sector or employed by a local government or a school district shall be reimbursed for their actual and necessary expenses related to committee activity pursuant to KRS 18A.200. Committee members from the private sector, and committee members employed by a school district or local government who are not paid by their school district or local government for the time they serve on the committee, shall be paid an amount per day equal to that received by a member of an interim joint committee who is not a chairman thereof.***

***(4) The committee may hire accounting, actuarial and investment professionals as needed and when funds are provided by the Legislative Research Commission to advise on issues and proposals before the committee.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

***(1) During periods between sessions of the General Assembly, the Committee on Retirement and Pensions shall:***

***(a) Develop and recommend pension and retirement standards and a coherent state policy on pensions and retirement;***

***(b) Continuously survey pension and retirement developments in other governments and in the private sector and periodically reappraise the state's policy and standards in view of these developments and changing economic and social conditions;***

***(c) Continuously review the federal Social Security program and evaluate the relationship between state and local public retirement programs and the Social Security program;***

***(d) Review retirement and pension provisions in force in Kentucky from time to time and recommend the changes in the state's laws that are deemed advisable;***

***(e) Review proposals from other sources for changes in Kentucky's public retirement and pension laws and make recommendations concerning the proposals to the General Assembly;***

***(f) Prepare an interim report to the General Assembly by October 1 of every odd numbered year. The committee shall, during the 1990-91 interim, conduct a comprehensive study of retiree medical benefits, including questions of equity, coverage and projected costs, and shall study the costs and benefits of statutorily fixed cost-of-living increments in amounts sufficient to provide reasonable protection from inflation, and shall study the costs and benefits of permitting state and local government employees to retire after twenty-seven (27) years of service with no penalty for early retirement, and shall include reports on these studies in its first interim report;***

***(g) Submit proposed legislation to the General Assembly for the purpose of implementing its recommendations.***

***(2) During sessions of the General Assembly, standing committees, to which bills which would create or amend retirement law have been assigned, may ask the Committee on Retirement and Pensions for review and comment on these bills. The committee shall prepare and attach its recommendation to each bill it reviews. If a standing committee substantially amends a bill reviewed by the Committee on Retirement and Pensions either before or after passage by either house of the General Assembly, the Committee on Retirement and Pensions may conduct a second review, and attach its recommendation to the amended version. The current recommendation of the Committee on Retirement and Pensions shall be attached to the bill until it has been passed by both houses of the General Assembly.***

Section 3. KRS 6.350 is amended to read as follows:

(1) ***(a)*** A bill which would increase the benefits or increase participation in the benefits or change the financial liability of any public retirement system administered by an agency of state government shall not be reported from a legislative committee of either house of the General Assembly for consideration by the full membership of that house unless the bill is accompanied by an actuarial analysis.

***(b) An amendment introduced on the floor of either house of the General Assembly which would increase the benefits or increase participation in the benefits or change the financial liability of any public retirement system administered by an agency of state government shall not be passed by either house of the General Assembly unless the amendment is accompanied by an actuarial analysis.***

(2) An actuarial analysis required by this section must show the economic effect of the bill on the public retirement system, including a projection of the annual cost to the system of implementing the legislation for at least ten (10) years. If a bill proposes to increase benefits, increase benefit participation, or provide liability assumption for more than one (1) public retirement system, the actuarial analysis shall project costs for each affected state-administered public retirement system. An actuarial analysis shall state the actuarial assumptions and methods of computation used in the analysis and shall state whether or not the bill or resolution, if enacted, would, in the opinion of the actuary, make the affected public retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. An advanced funding actuarial cost method shall be used in all cost projections.

(b) An actuarial analysis required by this section shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1974.

(3) An actuary commissioned to make an actuarial study that is required by this section, or for the

purpose of seeking appropriations for a public retirement system administered by an agency of state government, shall include in the study a complete definition of each actuarial term used in the study and, either in the study or in a separate report made available as a public record, an enumeration and explanation of each actuarial assumption used in the valuation made for the study.

The Committee Amendment No. 1 to **HB 592** is as follows:

Amend printed copy of **HB 592** on page 1, line 15, by inserting the following after "***Commission***": "***with at least one (1) such member to be a member of the minority party***".

**HB 648,** AN ACT relating to the Kentucky Disaster and Emergency Assistance Authority.

WHEREAS, the General Assembly of the Commonwealth of Kentucky recognizes that natural and technological disasters and emergencies are an ever-present threat to the citizens and communities of the Commonwealth; and

WHEREAS, disaster and emergency assistance provided by the federal government may not be available or may impose prohibitive cost-sharing requirements for local governments; and

WHEREAS, response to many localized disasters and emergencies is borne entirely by city, county, and urban county governments; and

WHEREAS, city, county, and urban county governments may from time to time lack resources and capabilities sufficient to meet the immediate needs caused by disaster or by emergency; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky acknowledges that the public interest is best served through prompt and effective response to threats to public health and safety and that funds for such response must be immediately available;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

***(1) The Kentucky Disaster and Emergency Assistance Authority is hereby created as an independent agency of state government and shall be composed of the secretary of the Finance and Administration Cabinet, the secretary of the Transportation Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, the director of the Office of Policy and Management, and the adjutant general. The adjutant general shall serve as permanent chairman of the authority and shall preside over the meetings and coordinate the activities of the authority.***

***(a) A quorum shall consist of a majority of the full membership, and a majority of the quorum shall prevail on all questions before the authority. The authority shall hold regular meetings to discuss policy matters and to consider applications for assistance. The chairman shall be empowered to call meetings when found to be necessary, and a majority of the quorum present at a regular meeting may petition the chairman to call other meetings.***

***(b) Members of the authority shall receive no salary for carrying out the functions of the authority.***

***(c) The authority shall be empowered to promulgate necessary administrative regulations for implementation of all provisions of this Act and shall be empowered to require from any state agency such assistance as is required for this implementation.***

***(2) Each member of the authority shall designate, in writing to the adjutant general, an alternate for functions of the authority. Each alternate shall be fully authorized to act for the member represented in all functions of the authority.***

***(3) The authority shall be assigned to the Division of Disaster and Emergency Services in the Department of Military Affairs for budgetary and administrative purposes.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

***(1) The Kentucky Disaster and Emergency Assistance Authority shall be empowered to make loans to city, county and urban county governments, on a long-term basis at an interest rate to be established annually by the authority, for purposes of restoring, repairing or replacing public facilities, roadways, buildings or other structures destroyed or damaged by disaster or emergency, provided such facilities are owned by, operated by or, for purposes of maintenance, are controlled by the city, county, or urban county government. Such loans may be provided without regard to availability of federal disaster assistance or other federal***

*funds. The amount of a loan to any single city, county or urban county shall not in any case exceed two hundred fifty thousand dollars ($250,000) for any damages or loss caused by a single calamity, and at no time shall exceed four hundred thousand dollars ($400,000) for any reason or any number of calamities. The amount of all loans outstanding shall at no time exceed funds available to the authority. All repayments of principal and interest shall be paid to and deposited in the Disaster and Emergency Assistance Authority fund.*

*(2) At no time shall funds provided under provisions of this Act be used to restore, repair or replace privately owned, controlled or maintained property, facilities or enterprises, unless such action is required to eliminate or to mitigate immediate threats to public health and safety. In all such cases, the authority shall take all possible actions to identify responsible individuals, firms, organizations or other parties and shall act to secure prompt repayment of all authority funds expended.*

*(3) At no time shall funds provided under this Act be used to restore facilities damaged by the neglect, malfeasance or other failure of cognizant officials to perform duties and functions prudently and responsibly, except when such action is required to eliminate or to mitigate immediate threats to public health and safety. In all such cases the authority shall take all possible actions to identify responsible parties and shall act to secure prompt and full repayment of all funds expended.*

*(4) The authority shall promulgate administrative regulations regarding, but not limited to:*

*(a) The method of application for loans under provisions of this Act;*

*(b) The procedures for approval and disapproval of applications for loans under provisions of this Act;*

*(c) Provisions for repayment of loans approved under this Act; and*

*(d) Such other administrative regulations as may be reasonably necessary to carry out the purposes and provisions of this Act.*

*(5) Loans made under provisions of this Act shall be repaid in a period, not to exceed ten (10) years, to be determined for each loan individually by the authority. The authority may, however, defer payment of loan principal, for a period to be determined by the authority, when such deferment is requested by a loan recipient or when a loan recipient is approved for a subsequent loan under this Act. In no case, however, shall full repayment of any loan be deferred for any reason beyond fifteen (15) years from the date of approval of that loan.*

*(6) The authority may make loans to cities, counties, or urban county governments which have received federal disaster assistance as a result of the calamity requiring the loan, if it is determined that such loan is necessary for restoration, repair or replacement of essential facilities, buildings or other structures, to eliminate threats to public health and safety, or to mitigate the likelihood of future calamity and that the loan can be made without endangering the applicant's financial standing or regular operations.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

*(1) Applications for loans shall be made by the chief executive officer of the applicant jurisdiction, with the prior approval of the legislative authority of that jurisdiction. Applications shall be made on forms furnished by the authority. The application shall include, but is not limited to:*

*(a) Proof that the applicant jurisdiction is without sufficient funds or other sources of credit to make the needed repair, restoration or replacement without seriously endangering the financial standing or capacity for regular operations of the jurisdiction;*

*(b) Proof that a disaster or emergency or threats to public health and safety of the nature addressed by this Act and its administrative regulations have occurred or are imminent;*

*(c) Proof that the facilities, buildings or other structures damaged, destroyed or endangered are public facilities for purposes of this Act and its administrative regulations;*

*(d) Such information concerning the assets, liabilities, credit standing and capabilities of the applicant as is reasonably necessary for the authority to determine whether the requested loan assistance is appropriate and whether the applicant will be able to meet loan obligations;*

*(e) Agreement by the applicant that the authority or its representatives may, as determined necessary by the authority, conduct audits and inspections to determine the applicant's need for assistance under provisions of this Act and the applicant's capability for repayment; and*

*(f) Other information and supporting data that the authority shall require by administrative regulation or by written request to the applicant.*

*(2) Any applicant for a loan under provisions of this Act shall agree to use the funds obtained solely for public purposes, as provided in this Act, and only for those purposes stated in the approved loan application. The applicant shall also provide documentation of expenditures of loan funds as may be required by the authority.*

*(3) No applicant shall hold at one (1) time more than three (3) outstanding loans from the authority.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

*The authority may employ administrative and technical assistance as necessary to process applications and to implement other provisions of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

*When the authority approves an application for a loan, it shall issue appropriate documents to the Finance and Administration Cabinet which shall draw warrants for issuance of funds from the agency fund provided for in Section 7 of this Act.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

*When default occurs on a loan issued under provisions of this Act, the authority shall have the full authority of the Commonwealth for collection of the debt created by the default and shall have authority to encumber and to take funds due to the defaulting jurisdiction from any other state agency or program. The Attorney General shall, in the event of default, bring action in the Franklin Circuit Court or in the circuit of the judicial district within whose boundaries the defaulting jurisdiction lies, the choice of circuit to be made by the Attorney General.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

*(1) Upon declaration by the Governor that an emergency or disaster as considered by this chapter exists, the Governor shall be empowered to transfer, for purposes of making loans as provided in this Act, funds from the general fund and from the road fund to the authority. The amount of funds to be provided to the authority shall be determined by estimates of loan assistance required by eligible applicants or by the total of loan applications received. The share of such funds to be transferred from the general fund and from the road fund shall be determined by the extent and types of damages to public facilities.*

*(2) Funds transferred to the authority shall be deposited in the Kentucky Disaster and Emergency Assistance Authority fund which shall be established for this purpose.*

*(3) Expenditures from the Kentucky Disaster and Emergency Assistance Authority fund shall be limited to issuance of loans to eligible, approved applicant jurisdictions and to the administrative and operational expenses of the Division of Disaster and Emergency Services in support of the authority and in implementing the provisions of this Act.*

*(4) Payments of principal and interest made to the authority shall be paid to the Kentucky Disaster and Emergency Assistance Authority fund. All such payments, excepting expenditures for loans and operational and administrative expenses in support of the authority, shall annually be repaid to the general fund and the road fund in proportion to funds received.*

**HB 650**, AN ACT relating to the Finance and Administration Cabinet.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 42.066 is amended to read as follows:

(1) The Division of Occupations and Professions shall provide administrative services, technical assistance and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, Kentucky Athletic Commission, the State Board of Examiners and Registration of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the State Board for Proprietary Education, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the State Board of [~~Examiners of~~] Speech-***Language*** Pathology and Audiology,

the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Board for Licensing Hearing Aid Dealers and Fitters, the State Board of Examiners of Social Work of Kentucky, and [~~such~~] other boards and commissions [~~as are~~] created to license, certify, register or otherwise regulate any occupational or professional category.

(2) To the extent that the division does provide administrative services, the respective boards and commissions ***shall be*** [~~are~~] relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions. ***The Division of Occupation and Professions shall not be responsible for providing services and assistance to boards and commissions which do not have adequate financial resources to pay the division for its services.***

(3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause ***the*** [~~such~~] complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission.

(4) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

**HB 682**, AN ACT relating to public records.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.870 is amended to read as follows:

As used in KRS 61.872 to 61.884:

(1) "Public agency" means every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority;

(2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall [~~not~~] include any records owned by a private person or corporation that are [~~not~~] related to functions, activities, programs or operations funded by state or local authority. ***"Public record" shall not include vendor proprietary information software or computer software programs acquired and licensed for purposes of processing data for a public agency; or computer software developed by or for a public agency***;

(3) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control; and

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

Section 2. KRS 61.872 is amended to read as follows:

(1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.

(2) Any person shall have the right to inspect public records during the regular office hours of the public agency. The official custodian may require written application describing the records to be inspected.

(3) If the person to whom the application is directed does not have custody or control of the public record requested, such person shall so notify the applicant and shall furnish the name and location of the custodian of the public record, if such facts are known to him.

(4) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately so notify the applicant and shall designate a place, time and date, for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the

cause is given for further delay and the place, time and earliest date on which the public record will be available for inspection.

(5) If the application places an unreasonable burden in producing voluminous public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records. However, refusal under this section must be sustained by clear and convincing evidence.

***(6) The official custodian shall produce the requested record for inspection or copying in paper form or flat file electronic format as designated by the person making the request for inspection. Fees for copies of public records in the form or format specified herein shall be determined as provided by KRS 61.874(2).***

***(7) A public agency shall prepare a summary of data elements contained in a data base that may be utilized in conjunction with software, programs or routines to create new public records that do not exist in electronic or paper form. Upon request for inspection of a public record, the custodian shall also provide the applicant a copy of this summary. The summary shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.874.***

***(8) A public agency shall not be required to provide copies of recording tapes, discs, diskettes, other electronic or optical storage media that contain software, programs or routines used to employ the capabilities of data processing hardware, including but not limited to operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer network programs.***

***(9) A public agency shall not be required to create or prepare a public record that does not exist. Upon request, a public agency may create:***

***(a) A public record; or***

***(b) An abstract or summary of a public record.***

***A public agency may charge a reasonable fee for the creation of a public record, or for the preparation of an abstract or summary. The fee may include charges for the copying, search time and computer time required. The fee shall not include the recovery of capital expenditures or cost of labor.***

Section 3. KRS 61.874 is amended to read as follows:

(1) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all written public records. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee. If the applicant desires copies of public records other than written records, the custodian of such records shall permit the applicant to duplicate such records, however, the custodian may ensure that such duplication will not damage or alter the records.

(2) The public agency may prescribe a reasonable fee for making copies of public records which shall not exceed the actual cost thereof not including the cost of staff required.

***(3) If the applicant requests copies of the records be mailed, the official custodian shall mail the copies upon receipt of copying and mailing charges.***

Section 4. KRS 61.880 is amended to read as follows:

(1) Each public agency, upon any request for records made under KRS 61.870 to 61.884, shall determine within three (3) days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the three (3) day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.

(2) A copy of the written response denying inspection of a public record shall be forwarded immediately by the agency to the Attorney General of the Commonwealth of Kentucky. If requested by the person seeking inspection, the Attorney General shall review the denial and issue within ten (10) days (excepting Saturdays, Sundays and legal holidays) a written opinion to the agency concerned, stating whether the agency acted consistent with provisions of KRS 61.870 to 61.884. A copy of the opinion shall also be sent by the Attorney General to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.

(3) Each agency shall notify the Attorney General of any actions filed against that agency in circuit court regarding the enforcement of KRS 61.870 to 61.884.

(4) In the event a person feels the intent of KRS 61.870 to 61.884 is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant, the person may complain in writing to the Attorney General and the complaint shall be subject to the same adjudicatory process as if the record had been denied.

(5) If the Attorney General upholds, in whole or in part, the request for inspection, the public agency involved ***shall release the records or*** [~~may~~] institute proceedings within thirty (30) days for injunctive or declaratory relief in the circuit court of the district where the public record is maintained. ***If the public agency fails to institute action, the person seeking disclosure may institute proceedings to obtain a court order requiring disclosure. At such proceedings, the public agency shall be precluded from arguing that disclosure is not required by law.*** If the Attorney General disallows the request [~~or if the public agency continues to withhold the record notwithstanding the opinion of the Attorney General~~], the person seeking disclosure may institute such proceedings ***within thirty (30) days for injunctive, declaratory or other relief in the circuit court of the district where the public record is maintained.***

Section 5. KRS 171.410 is amended to read as follows:

As used in KRS 171.420 to 171.740:

(1) "Public record or record" means all books, papers, maps, photographs, cards, tapes, disks, diskettes, recordings, and other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall [~~not~~] include any records owned by a private person or corporation that are [~~not~~] related to functions, activities, programs or operations funded by state or local authority. ***Public records shall not include any vendor proprietary information software or computer software programs acquired for purposes of processing data for a public agency; or any computer software developed by or for a public agency. Public agencies are not required to provide software, programs, routines, applications, operating protocols, or other machine readable information used to employ the capabilities of data processing hardware***;

(2) "Department" means the Department of Libraries and archives;

(3) "Commission" means the State Archives and Records Commission; and

(4) "Public agency" means every state or local office, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority and which derives at least twenty-five percent (25%) of its funds from state or local authority.

Section 6. KRS 519.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves;

(2) "Public record" includes all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, magnetic or electronic images, optical images or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs, or operations funded by state or local authority. ***"Public record" shall not include data bases, software, programs, routines, applications, operating protocols or other machine readable information used to employ the capabilities of data processing hardware***;

(3) "Public servant" means:

(a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state;

(b) Any person exercising the functions of any such public officer or employee;

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position;

(4) As used in this chapter, "benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

The Committee Amendment No. 1 to **HB 682** is as follows:

Amend printed copy of **HB 682** on page 1, line 20, by removing the brackets and strike throughs from "[not]";

On page 1, line 21, by removing the brackets and strike throughs from "[not]";

On page 8, line 11, by removing the brackets and strike throughs from "[not]";

On page 8, line 12, by removing the brackets and strike throughs from "[not]";

On page 10, line 2, by deleting the following: "***data bases,***".

**HB 683,** AN ACT relating to the establishment of the Communications Advisory Council of the Kentucky Information Systems Commission.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.***

***(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.***

***(3) The council shall consist of:***

***(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;***

***(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the executive director of the Council on Higher Education;***

***(c) The executive director of the Kentucky Authority for Educational Television or his designee;***

***(d) The state librarian or his designee;***

***(e) The Superintendent of Public Instruction or his designee;***

***(f) The adjutant general or his designee;***

***(g) The commissioner of the Department of State Police or his designee;***

***(h) The executive director of the Administrative Office of the Courts or his designee;***

***(i) One (1) representative of local governments to be appointed by the Governor; and***

***(j) Two (2) citizen members to be appointed by the Governor.***

***(4) A member of the council may not:***

***(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;***

***(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or***

***(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.***

***(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.***

***(6) The term of office of the members specified in subsections (3)(a) and (3)(c) through (3)(h) shall be the same as the term of the office by virtue of which they serve upon the council.***

***(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.***

***(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.***

***(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***(1) The Communications Advisory Council shall select from its membership a chairman and any other officers it considers essential. The council, upon the call of its officers or the chairman of the commission, may hold meetings at such times as it deems necessary.***

***(2) The council's duties shall include the following:***

***(a) Formulating a statewide communications plan to be delivered to the Information Systems Commission as a component of the statewide information resources plan. This plan shall be developed from information resource plans submitted by the three (3) branches and constitutional offices of state government, including state universities. The plan shall take into account projected communications needs of the Commonwealth of Kentucky and all its departments, officers, agencies, and subdivisions;***

***(b) Recommending to the chairman of the commission action on the communications aspects of agency information resource plans; and***

***(c) Recommending to the chairman of the commission procedures and legislation to improve the accessibility of information through communications systems and services.***

***(3) The Kentucky Information Systems Commission shall provide necessary staff support services to the council. All departments, divisions, agencies and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records or advice as it may require which is pertinent to the subject matter being studied.***

***(4) The council shall report its findings and activities to the chairman of the commission on a quarterly basis or as specified by the chairman. The chairman of the council shall attend commission meetings when requested by the chairman of the commission.***

The Committee Amendment No. 1 to **HB 683** is as follows:

Amend printed copy of **HB 683** on page 2, after line 4, by inserting the following:

"***(c) The executive director of the Council on Higher Education or his designee;***" and renumbering the remaining paragraphs accordingly.

**HB 686**, AN ACT relating to Commonwealth's attorneys.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of ***sixty*** [~~seventy-five~~] thousand ***(60,000)*** [~~(75,000)~~] or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Finance and Administration Cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Finance and Administration Cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Finance and Administration Cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Finance and Administration Cabinet.

Section 2. Section 1 of this Act shall take effect January 1, 1991; however, Section 1 of this Act shall not apply to any Commonwealth's attorney in office on January 1, 1991 or to any successor prior to January 1, 1994 unless the Commonwealth's attorney shall notify the Attorney General in writing prior to December 15, 1990 of his intention to serve as a full-time Commonwealth's attorney, with the additional duty of refraining from the private practice of law, commencing on January 1, 1991.

The Committee Substitute to **HB 686** is as follows:

**HB 686**, AN ACT relating to Commonwealth's attorneys.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of ***fifty-five*** [~~seventy-five~~] thousand ***(55,000)*** [~~(75,000)~~] or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Finance and Administration Cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Finance and Administration Cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the

Finance and Administration Cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Finance and Administration Cabinet.

Section 2. Section 1 of this Act shall take effect January 1, 1991; however, Section 1 of this Act shall not apply to any Commonwealth's attorney in office on January 1, 1991 or to any successor prior to January 1, 1994 unless the Commonwealth's attorney shall notify the Attorney General in writing prior to December 15, 1990 of his intention to serve as a full-time Commonwealth's attorney, with the additional duty of refraining from the private practice of law, commencing on January 1, 1991.

**HB 699**, AN ACT relating to attachments or garnishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 427.130 is amended to read as follows:

(1) Salaries or sums due state, county, city and school board officers and employees shall be subject to attachment or garnishment.

(2) All sums due any person from the Commonwealth of Kentucky, or any agency or department thereof, and all sums due from any county school board, city or county, shall be subject to attachment or garnishment.

(3) Service of attachments or garnishments upon the Commonwealth of Kentucky shall be made by serving the secretary of the Finance and Administration Cabinet, and the State Treasurer. No attachment or garnishment served upon the Commonwealth shall be valid unless the process shall specify the name ***and social security number*** of the employee, or other creditor, and the budget unit and division thereof through which the sum alleged to be due is payable.

**HB 746**, AN ACT relating to state officials.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 11.120 is amended to read as follows:

The Governor [~~and the lieutenant governor~~] shall not engage in the practice of law ***and the Lieutenant Governor shall not practice law before any state agency*** during their terms of office.

The Committee Substitute to **HB 746** is as follows:

**HB 746**,AN ACT relating to state officials.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 11.120 is amended to read as follows:

The Governor [~~and the lieutenant governor~~] shall not engage in the practice of law ***and the Lieutenant Governor shall not practice law before any state agency*** during their terms of office.

Section 2. KRS 64.480 is amended to read as follows:

(1) Effective, with respect to the offices of Governor on December 11, 1979, and Lieutenant Governor on the fifth Tuesday following the regular November election in 1975 and with respect to the other offices named in this section, on the first Monday in January, 1976, the compensation of the following named officers, payable monthly out of the State Treasury, shall be the sum per annum designated for the respective offices, as follows: Governor, forty-five thousand dollars ($45,000) until December 11, 1981, then fifty thousand dollars ($50,000) until December 13, 1983, and then sixty thousand dollars ($60,000) until January 1, 1985; Lieutenant Governor, an amount sufficient, when added to any per diem received during sessions of the General Assembly while serving in the capacity of President of the Senate, to equal twenty-seven thousand nine hundred dollars ($27,900) per annum, plus any compensation received while acting in the place of the Governor***, provided, however, that the salary of the Lieutenant Governor shall be no more than fifty thousand dollars ($50,000) at the commencement of the term that begins after the 1991 general election***; Attorney General, Superintendent of Public Instruction, Commissioner of Agriculture, Secretary of State, State Treasurer, Auditor of Public Accounts, and Clerk of the Supreme Court of Kentucky elected in November, 1975, as Clerk of the Court of Appeals, twenty-seven thousand nine hundred dollars ($27,900).

(2) In order to equate or adjust the compensation of the [~~Lieutenant Governor,~~] Attorney General, Superintendent of Public Instruction, Commissioner of Agriculture, Secretary of State, State Treasurer, Auditor of Public Accounts, and Clerk of the Supreme Court of Kentucky with the purchasing power of the 1949 dollar, the Department for Local Government of Kentucky shall compute by the second Friday in February of every year, beginning in 1977, the maximum permissible compensation of the officials mentioned in this

subsection based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W. 2d 139 (1962). Thus the maximum permissible compensation effective for the entire year of 1977 and subsequent years will be the actual compensation to be paid said officials. The year of adjustment will be the particular full calendar year involved.

(3) It is the intention of the legislature that the constitutionally permissible adjustment of salaries of these officials be framed around equating current salaries with the purchasing power of the dollar in 1949 when section 246 of the Constitution of Kentucky was amended. Section 246 of the Constitution of Kentucky, as amended, established a monetary level of twelve thousand dollars ($12,000) per annum for said officials. The formula merely effects an adjustment of the constitutional monetary level in terms of the current consumer price index.

(4) In order to adjust the compensation of the Governor to reflect changes in the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year, beginning in 1985, an adjusted salary of the Governor by multiplying sixty thousand dollars ($60,000) by the increase in the consumer price index during the period from January 1, 1984 to the beginning of the then-current calendar year. The actual compensation paid to the Governor for the entire calendar year of 1985 and subsequent years shall be the adjusted salary.

***(5) In order to adjust the compensation of the Lieutenant Governor to reflect changes in the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year, beginning in 1993, an adjusted salary of the Lieutenant Governor by multiplying fifty thousand dollars ($50,000) by the increase in the consumer price index during the period from January 1, 1992 to the beginning of the then-current calendar year. The actual compensation paid to the Lieutenant Governor for the entire calendar year of 1993 and subsequent years shall be the adjusted salary.***

**HB 762,** AN ACT relating to employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) ***"Alcohol" or "alcoholic beverages" means ethyl alcohol or ethanol or beverages containing ethyl alcohol or ethanol.***

***(2)*** "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner;

***(3)***[~~(2)~~] "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

***(4)***[~~(3)~~] "Board" means the personnel board created by KRS 18A.045;

***(5)***[~~(4)~~] "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

***(6)***[~~(5)~~] "Certification" means the referral of the name of one (1) or more qualified prospective employees by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

***(7)***[~~(6)~~] "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

***(8)***[~~(7)~~] "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

***(9)***[~~(8)~~] "Commissioner" means the commissioner of the department of personnel as provided for in KRS 18A.015;

*(10)*[~~(9)~~] "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

*(11)*[~~(10)~~] "Department" means the department of personnel provided for in KRS 18A.015, unless the context indicates otherwise;

*(12)*[~~(11)~~] "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

*(13)*[~~(12)~~] "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18A.010 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;

*(14)*[~~(13)~~] "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

*(15)*[~~(14)~~] "Federally funded time-limited employee" means an employee appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employees as defined in this chapter;

*(16)*[~~(15)~~] "Federally funded time-limited position" means a position created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

*(17)*[~~(16)~~] "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;

*(18)*[~~(17)~~] "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;

*(19)*[~~(18)~~] "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

*(20)*[~~(19)~~] "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

*(21)*[~~(20)~~] "Promotional probation" means the six (6) month period of service following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

*(22)*[~~(21)~~] "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18A.010 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(6)(h);

*(23)*[~~(22)~~] "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

*(24)*[~~(23)~~] "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

*(25)*[~~(24)~~] "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

*(26)*[~~(25)~~] "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

*(27)*[~~(26)~~] "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

*(28)*[~~(27)~~] "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

*(29)*[~~(28)~~] "Seasonal employee" means an employee appointed to a seasonal position;

*(30)*[~~(29)~~] "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months duration;

*(31)*[~~(30)~~] "Seniority" means the total number of months of state service;

*(32)*[~~(31)~~] "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;

*(33)*[~~(32)~~] "Temporary employee" means an employee appointed to a temporary position;

*(34)*[~~(33)~~] "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;

*(35)*[~~(34)~~] "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service and the same salary received immediately prior to transfer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***(1) No employee shall illegally use, sell, distribute, manufacture, dispense or possess alcoholic beverages or controlled substances as defined in KRS 218A.010 to KRS 218.130 on state property, including state vehicles or vehicles being used in conjunction with state business.***

***(2) No employee shall report for work or conduct state business while under the influence of alcoholic beverages as defined by KRS 189.520.***

***(3) A violation of any provision of this section by an employee shall constitute cause for disciplinary action, including dismissal, in accordance with the provisions of KRS 18A.095.***

**HB 763,** AN ACT relating to drug-free workplaces.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***(1) The commissioner of personnel shall promulgate administrative regulations in accordance with KRS Chapter 13A, to implement the provisions of the federal Drug-Free Workplace Act of 1988, Subtitle D of Public Law 100-690, so that the Commonwealth of Kentucky can certify that it has met the requirements designed to promote a drug-free workplace for all state employees.***

***(2) The commissioner of personnel shall promulgate the administrative regulations referred to in subsection (1) of this section by January 1, 1991.***

Section 2. (1) During the 1990-91 interim, the Legislative Research Commission shall conduct a study of the impact of extending the policy established in the federal Drug-Free Workplace Act of 1988 to persons and businesses receiving contracts with or grants from Kentucky state and local governments.

(2) The study required by this section may be conducted by the appropriate existing interim joint committee or task force of the Commission, as determined by the Commission, or it may be conducted by a special task force created by the Commission for purposes of the study. The study shall be completed and a report and recommendations shall be provided to the Commission by November 1, 1991.

(3) Legislative Research Commission staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

**HCR 50,** A CONCURRENT RESOLUTION urging Kentucky citizens to "stand up and be counted" in the 1990 United States Census.

WHEREAS, April 1, 1990, marks the date of the beginning of the 1990 United States census population count, an enumeration of our population conducted every ten years; and

WHEREAS, the census count is so important to our representative and democratic form of government that the framers of our Constitution included the decennial population count as a requirement of our United States Constitution; and

WHEREAS, census data is used to determine the boundaries of our legislative and congressional districts and to determine how many seats Kentucky will have in the U.S. House of Representatives; and

WHEREAS, the Commonwealth of Kentucky is "on the bubble", in serious danger of losing one of its seven United States congressional seats if the population count falls short; and

WHEREAS, population figures are extremely important as they are used by federal and state government to determine the distribution of billions of dollars to states and local communities through a variety of programs; and

WHEREAS, some Kentuckians may be reluctant to be counted for fear the information given would not, in fact, be held strictly confidential; and

WHEREAS, census information is strictly confidential and unavailable to anyone, including immigration authorities, the Internal Revenue Service, the Federal Bureau of Investigation, the courts, the military, welfare agencies, and the like; and

WHEREAS, each uncounted citizen represents a threat to Kentucky's representation in Congress and a significant loss of revenue;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That all citizens of the Commonwealth are urged to "stand up and be counted" in the 1990 U.S. Census in an effort to save our seven seats in the United States House of Representatives and to insure that Kentucky gets her fair share of federal funds.

Section 2. That the members of the Kentucky General Assembly undertake a serious campaign to educate their constituents as to the importance of their enthusiastic participation in the 1990 Census.

Section 3. That the Executive Branch of Government and officials of local governments embark on a similar effort to promote active participation in the 1990 Census.

**HJR 174,** A JOINT RESOLUTION authorizing and directing the Kentucky Department of Personnel to conduct a study of state employee salaries and benefits to see how they compare with the seven surrounding states and making an appropriation therefor.

WHEREAS, it is becoming increasingly more difficult for the Commonwealth of Kentucky to recruit and retain attorneys because these people can make more money in the teaching profession; and

WHEREAS, it is becoming increasingly more difficult for the Commonwealth of Kentucky to recruit and retain social workers because social workers with masters degrees employed by the state are making less money than beginning teachers; and

WHEREAS, it is becoming increasingly more difficult for the Commonwealth of Kentucky to recruit and retain registered nurses because nursing positions in the private sector pay more money; and

WHEREAS, it is becoming increasingly more difficult for the Commonwealth of Kentucky to recruit and retain computer personnel because private-sector salaries are higher; and

WHEREAS, it is becoming increasingly more difficult for the Commonwealth of Kentucky to recruit and retain engineers because salaries in the private sector are higher; and

WHEREAS, it is becoming increasingly more difficult for the Commonwealth of Kentucky to recruit and retain members of the state police because the police departments in the Commonwealths' two largest cities pay higher salaries; and

WHEREAS, rank-and-file employees of the Commonwealth of Kentucky are moonlighting to make ends meet; and

WHEREAS, female employees of the Commonwealth of Kentucky are still paid less than men in comparable jobs; and

WHEREAS, employees of the Commonwealth of Kentucky are finding it increasingly difficult to afford family health and dental insurance coverage; and

WHEREAS, correctional officers of the Commonwealth of Kentucky are eligible for and receive food stamps; and

WHEREAS, state employee salary increases have not kept up with inflation; and

WHEREAS, state employee health benefits are being reduced annually and costing more;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Department of Personnel shall study, or cause to be studied, salaries and benefits of Executive Department employees and compare them with the salaries paid and benefits granted similar employees in the seven states surrounding Kentucky.

Section 2. There is hereby appropriated from the General Fund the sum of $25,000 to accomplish this study. Any amount remaining following the completion of this study shall revert to the General Fund. The study shall begin no later than August 1, 1990, and the report and recommendations shall be submitted to the Legislative Research Commission's Interim Joint Committees on State Government and Appropriations and Revenue no later than July 31, 1991.

The Committee on Education reported **HB 529** with Committee Amendment attached thereto, and **HCR 158** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 529,** AN ACT relating to planning time for teachers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

***Public school teachers of grades nine (9) through twelve (12) shall be allowed fifty-five (55) consecutive minutes of duty-free planning time each school day. The fifty-five (55) minutes of duty-free planning time shall not be a part of the regularly scheduled lunch period, as described in KRS 158.060; the time teachers are required to be at school prior to the start of the student's six (6) hour instructional day; or the time teachers are required to remain at or return to school after the students are dismissed.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

***Public school teachers of grades kindergarten through eight (8) shall be allowed forty-five (45) consecutive minutes of duty-free planning time each school day. The forty-five (45) minutes of duty-free planning time shall not be a part of the regularly scheduled lunch period, as described in KRS 158.060; the time teachers are required to be at school prior to the start of the student's six (6) hour instructional day; or the time teachers are required to remain at or return to school after the students are dismissed.***

The Committee Amendment No. 1 to **HB 529** is as follows:

Amend printed copy of **HB 529** on page 1, line 8, delete all underlined language beginning with the semi-colon "(*;*)" through the word "***dismissed***" on line 12 and insert the following in lieu thereof:

"***or any time before or after the students' six (6) hour day***"; and

on page 1, line 20, delete all underlined language beginning with the semi-colon "(*;*)" through the word "***dismissed***" on page 2, line 3 and insert the following lieu thereof:

"***or any time before or after the students' six (6) hour day***".

**HCR 158,** A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to conduct a study of issues relating to school choice.

WHEREAS, demographic and labor market projections estimate that every American who is well-educated will have a good job by the year 2000 but those who have dropped out or have graduated from high school without obtaining adequate literacy and computational skills will be virtually unemployable; and

WHEREAS, our current national and state educational system is not producing the results that will be necessary to meet these future needs because recent surveys show that four (4) out of five (5) young adults have severe difficulty in summarizing the main points of newspaper articles, reading bus schedules, or figuring change from restaurant bills, all of which are skills indicative of a general ability to understand and communicate; and

WHEREAS, approximately thirty-five (35%) of young adults in this state drop out of school because their academic or social needs are not met in the school setting; and

WHEREAS, many school systems in Kentucky have utilized the magnet school concept, which allows some limited choice, and has been successful in raising standards and the performance of students in these school systems; and

WHEREAS, allowing a measure of choice gives parents the ability to choose the mix of services supplied by schools that best suits their preferences and this fact stimulates the schools to address more adequately the real needs of students and hence be both more responsive and more accountable; and

WHEREAS, various states and localities are allowing parents choice with regard to choosing the schools their children will attend; and

WHEREAS, the Education Commission of the States, the U.S. Secretary of Education, and the National Governors' Association view school choice as essential in bringing our educational system into the twenty-first century;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. The Interim Joint Committee on Education is directed to conduct a thorough and continuing study of the issues relating to school choice, including all aspects relating to adoption, implementation and funding of such a plan. The committee is authorized to seek the advice and counsel of those Kentucky school districts that have forms of a choice plan and those state and national figures knowledgeable in this area. The committee is encouraged to seek out those persons, groups, and organizations the committee feels will be able to assist in the discharge of its responsibilities.

Section 2. The committee shall make a report of its findings and recommendations, with suggestions for proposed legislation, if any, to the Legislative Research Commission on or before October 31, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

## Report on Enrolled Bills

The Committee on Enrollment reported **HB 267**, **HB 452** and **HB 59** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:12 p.m.)

**HB 267**, **HB 452** and **HB 59** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Representative Stumbo moved that **HB 293** be recommitted to the Committee on Natural Resources and Environmental Protection. Agreed.

## Orders of the Day

**HB 534**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 534**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to **HB 534**. Agreed.

Representative Lear moved that **HB 534**, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 10. (See March 12, 1990 roll call on **HB 534** - Appendix.)

**HB 534**, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 534**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 485**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Amendment No. 1 to **HB 485**. Agreed.

Representative Blevins moved that **HB 485**, as amended, be passed.

On the roll call the vote was: Yeas 41, Nays 40. (See March 12, 1990 roll call on **HB 485** - Appendix.)

**HB 485**, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 485**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HJR 137**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Floor Amendment No. 1 to **HJR 137**. Agreed.

Representative Blevins moved that **HJR 137**, as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 17. (See March 12, 1990 roll call on **HJR 137** - Appendix.)

**HJR 137**, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HJR 137**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 153** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HCR 153** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 12, 1990 roll call on **HCR 153** - Appendix.)

**HCR 153** was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HCR 153** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 122**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to **HB 122**. Agreed.

Representative Burch moved that **HB 122**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 12, 1990 roll call on **HB 122** - Appendix.)

**HB 122**, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 122**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 657** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 657** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 12, 1990 roll call on **HB 657** - Appendix.)

**HB 657** was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 657** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 779** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that **HB 779** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 1990 roll call on **HB 779** - Appendix.)

**HB 779** was passed and the title agreed to.

Representative Lyne moved that the vote by which **HB 779** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 556**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Substitute to **HB 556**. Agreed.

Representative Little moved that **HB 556**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 12, 1990 roll call on **HB 556** - Appendix.)

**HB 556**, by way of Committee Substitute, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 556**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 506**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Substitute to **HB 506**. Agreed.

Representative Scorsone moved that **HB 506**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 1. (See March 12, 1990 roll call on **HB 506** - Appendix.)

**HB 506**, by way of Committee Substitute, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 506**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 570** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 570** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 1990 roll call on **HB 570** - Appendix.)

**HB 570** was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 570** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 603**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 603**. Agreed.

Representative Lear moved that **HB 603**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 12, 1990 roll call on **HB 603** - Appendix.)

**HB 603**, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 603**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 633** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HB 633** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 12, 1990 roll call on **HB 633** - Appendix.)

**HB 633** was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 633** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 709** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 709** be passed.

On the roll call the vote was: Yeas 89, Nays 5. (See March 12, 1990 roll call on **HB 709** - Appendix.)

**HB 709** was passed and the title agreed to.

Representative Long moved that the vote by which **HB 709** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 791**, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 791**. Agreed.

Representative Farrow moved that **HB 791**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 1990 roll call on **HB 791** - Appendix.)

**HB 791**, as amended, was passed.

Representative Farrow moved the Committee Title Amendment to **HB 791**. Agreed; and the title was agreed to.

Representative Farrow moved that the vote by which **HB 791**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 538**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 538**. Agreed.

Representative Clarke moved that **HB 538**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 12, 1990 roll call on **HB 538** - Appendix.)

**HB 538**, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 538**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 579**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 579**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to **HB 579**. Agreed.

Representative Clarke moved that **HB 579**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 19. (See March 12, 1990 roll call on **HB 579** - Appendix.)

**HB 579**, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 579**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 653**, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Substitute to **HB 653**. Agreed.

Representative Noe moved the adoption of Floor Amendment No. 4 to **HB 653**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 3 to **HB 653**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 2 to **HB 653**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to **HB 653**. Rejected.

Representative Noe moved that **HB 653**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 3. (See March 12, 1990 roll call on **HB 653** - Appendix.)

**HB 653**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 653**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed on **HB 112**.

### Orders of the Day (Continued)

**HB 536**, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Substitute to **HB 536**. Agreed.

Representative McBee moved the adoption of Floor Amendment No. 2 to **HB 536**. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No. 3 to **HB 536**. Agreed.

Representative LeMaster moved that **HB 536**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 68, Nays 21. (See March 12, 1990 roll call on **HB 536** - Appendix.)

**HB 536**, by way of Committee Substitute as amended, was passed.

Representative LeMaster moved the adoption of the Committee Title Amendment to **HB 536**. Agreed; and the title was agreed to.

Representative LeMaster moved that the vote by which **HB 536**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

### Senate Message

Announcing passage of **SB 322**, **SCR 109**, **SJR 110**, **HB 23**, **HB 67**, **HB 97**, **HB 175**, **HB 191**, **HB 431** and **HB 476**.

Message received on **HB 112**: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 112**: Senators Ford, LeMaster, and Trevey.

### Orders of the Day (Continued)

**HB 165**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to **HB 165**. Agreed.

Representative Burch moved that **HB 165**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 12, 1990 roll call on **HB 165** - Appendix.)

**HB 165**, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 165**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 632** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HB 632** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 12, 1990 roll call on **HB 632** - Appendix.)

**HB 632** was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 632** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 691**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved the adoption of Floor Amendment No. 1 to **HB 691**. Agreed.

Representative Walker moved that **HB 691**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 12, 1990 roll call on **HB 691** - Appendix.)

**HB 691**, as amended, was passed and the title agreed to.

Representative Walker moved that the vote by which **HB 691**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 742** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 742** be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See March 12, 1990 roll call on **HB 742** - Appendix.)

**HB 742** was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 742** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 141** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HCR 141** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See March 12, 1990 roll call on **HCR 141** - Appendix.)

**HCR 141** was passed and the title agreed to.

Representative Ford moved that the vote by which **HCR 141** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 156**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of Committee Amendment No. 1 to **HCR 156**. Agreed.

Representative Freibert moved that **HCR 156**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 12, 1990 roll call on **HCR 156** - Appendix.)

**HCR 156**, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which **HCR 156**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 163** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HCR 163** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 12, 1990 roll call on **HCR 163** - Appendix.)

**HCR 163** was passed and the title agreed to.

Representative Arnold moved that the vote by which **HCR 163** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 443**, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 443** is as follows:

Amend printed copy of **HB 443** on page 2, lines 6 and 7 delete "***five (5)***" and insert "***seven (7)***" in lieu thereof.

The Senate Floor Amendment No. 2 to **HB 443** is as follows:

Amend printed copy of **HB 443** on page 2, lines 5 and 6, be deleting "***not promulgate rules, administrative regulations or bylaws which prohibit***" and inserting the following in lieu thereof:

"***provide by regulation that***";

on page 2, line 7, by deleting "***from participating***" and inserting "***may participate***" in lieu thereof;

on page 2, line 8, by deleting "***or from participating***" and inserting "***and***" in lieu thereof;

on page 2, line 9, by adding the following after "***sport***":

"***if meeting normal academic progress requirements.***".

The Senate Floor Amendment No. 3 to **HB 443** is as follows:

Amend printed copy of **HB 443** on page 2, line 7, after the word "***school***" insert "***interscholastic spring***" and after the word "***sports***" insert "***including, but not limited to, tennis, track, swimming, golf and other non-contact sports,***"; and

On page 2, line 9, insert the word "***spring***" before the word "***sport***" and after "***sport.***" add "***This shall not apply to contact sports.***"

Representative Layman moved that the House concur in Senate Floor Amendment No. 1 to **HB 443**. Agreed

Representative Laymon moved that the House refuse to concur in Senate Floor Amendment No. 2 to **HB 443**. Agreed.

Representative Laymon moved that the House refuse to concur in Senate Floor Amendment No. 3 to **HB 443**. Agreed.

**HB 46**, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 4 to **HB 46** is as follows:

Amend printed copy of **HB 46** on page 1, line 11, after the words "***core hole***" by inserting "***for oil or gas purposes***"; and

On line 12, after the word "***test***" by inserting "***for oil or gas purposes***".

The Senate Floor Amendment No. 5 to **HB 46** is as follows:

Amend printed copy of **HB 46** on page 7, line 3, after the word "***party***" by inserting "***appraiser's assessment of damages***" and by deleting "***appraiser or fair***"; and

On line 4, by deleting all the text thereon; and

On line 5, before the word "***there***" by deleting "***be reasonable, and***"; and

On line 8, after the word "***well***" by inserting "***or the reworking of any well,***" and after the word "***surface***" by inserting "***and any improvements thereon***"; and

On line 9, after the word "***to***" by inserting "***their***" and by deleting "***the***" and after the second "***condition***" by deleting "***of the***"; and

On line 10, before the word "***prior***" by deleting "***surface***" and after the word "***of***" by inserting "***the work***" and by deleting "***drilling operations***"; and

On line 18, after the word "***paid***" by inserting "***and accepted***".

Representative McElroy moved that the House concur in Senate Floor Amendment No. 4 to **HB 46**. Agreed

Representative McElroy moved that the House concur in Senate Floor Amendment No. 5 to **HB 46**. Agreed.

Representative McElroy moved that **HB 46**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See March 12, 1990 roll call on **HB 46** - Appendix.)

**HB 46**, as amended by the Senate, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 46**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 241**, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 241** is as follows:

Amend printed copy of **HB 241** on page 2, below line 14, to add the following:

"Section 2. KRS 70.045 is amended to read as follows:

(1) The sheriff may appoint and have sworn in and entered on the county clerk order book one (1) special deputy for each ***two*** [~~five~~] thousand ***five hundred (2,500)*** [~~(5,000)~~] residents or part thereof in his county, to assist him with general law enforcement and maintenance of public order. The population of the county shall be determined by the most recent count or estimate by the federal bureau of census.

(2) The sheriff in each county may appoint and have sworn in, and entered on the county clerk order book, as many special deputies as needed to assist him in the execution of his duties and office in preparation for or during an emergency situation, such as fire, flood, tornado, storm, or other such emergency situations. For purposes of this section only, an emergency situation is a condition which, in the judgment of the sheriff, requires a response immediately necessary for the preservation of public peace, health or safety, utilizing special deputies previously appointed in preparation for the contingency.

(3) The special deputy shall:

(a) Be appointed and dismissed on the authority of the sheriff;

(b) Not receive any monetary compensation for his time or services;

(c) Serve at the request of the sheriff, unless personal conditions rule otherwise;

(d) Be answerable to and under the supervision of the sheriff, who shall be responsible for the actions of the special deputy; and

(e) Be appointed regardless of race, color, creed or position.

(4) The position of special deputy as created and defined in subsections (1), (2) and (3) is subject to the provisions of this section only.".

Representative Farrow moved that the House concur in Senate Floor Amendment No. 1 to **HB 241.** Agreed

Representative Farrow moved that **HB 241**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 84, Nays 8. (See March 12, 1990 roll call on **HB 241** - Appendix.)

**HB 241**, as amended by the Senate, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 241**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 113** with Senate Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

The Senate Committee Substitute to **HB 113** is as follows:

**HB 113**, AN ACT relating to medical care.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***(1) The General Assembly finds that all adults have the fundamental right to control the decisions relating to their own medical care, including the decision to have medical or surgical means or procedures calculated to prolong their lives provided, withheld or withdrawn.***

***(2) In order that the dignity, privacy and sanctity of adults with terminal conditions may be respected even after they are no longer able to participate actively in decisions concerning their medical care, the General Assembly hereby declares that the laws of the Commonwealth of Kentucky shall recognize the right of an adult to make a written declaration pursuant to the provisions of Section 3 of this Act, instructing the adult's physician to withhold or withdraw life-prolonging treatment in the event such person is diagnosed as having a terminal condition.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***As used in this Act:***

***(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.***

***(2) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.***

***(3) "Declaration" means a witnessed document in writing, voluntarily made by the declarant in accordance with the requirements of Section 3 of this Act.***

***(4) "Health care facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care, and licensed pursuant to KRS Chapter 216B.***

***(5) "Life-prolonging treatment" means any medical procedure, treatment or intervention which:***

***(a) Utilizes mechanical or other artificial means to sustain, prolong, restore or supplant a spontaneous vital function or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition; and***

***(b) When applied to a patient in a terminal condition, would serve only to prolong the dying process. "Life-prolonging treatment" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain or for nutrition or hydration.***

***(6) "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.***

***(7) "Qualified patient" means an adult patient of sound mind who has:***

***(a) Made a declaration in accordance with this Act;***

*(b) Been diagnosed by the attending physician and one (1) other physician as having a terminal condition, with said condition noted by both in the patient's medical record; and*

*(c) Who is not known to be pregnant provided that for any adult woman of child-bearing age who has made a declaration and been diagnosed in writing as having a terminal condition, the attending physician shall cause a test to be made to determine if the woman is pregnant.*

*(8) "Terminal condition" means a condition caused by injury, disease or illness which, to a reasonable degree of medical probability, as determined solely by the qualified patient's attending physician and one (1) other physician, is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) An adult may, prior to or after having been diagnosed as having a terminal condition, make a written declaration directing the withholding or withdrawal of life-prolonging treatment.*

*(2) Except as provided in Section 7 of this Act, a declaration made pursuant to this section shall be honored by a declarant's family, regular family physician or attending physician, and any health care facility of or in which the declarant is a patient. A declaration made pursuant to this section shall be substantially in the following form, and may include other specific directions. Should any other specific directions be held by a court of appropriate jurisdiction to be invalid, such invalidity shall not affect the declaration.*

*Declaration*

*Declaration made this ____ day of __________, (month, year). I, ________________, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare:*

*If at any time I should have a terminal condition and my attending and one (1) other physician in their discretion, have determined such condition is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process, I direct that such treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain or for nutrition or hydration.*

*In the absence of my ability to give directions regarding the use of such life-prolonging treatment, it is my intention that this declaration shall be honored by my attending physician and my family as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of such refusal.*

*If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.*

*I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.*

*STATE OF KENTUCKY)*

*)Sct.*

*COUNTY OF ________________)*

*Before me, the undersigned authority, on this day personally appeared* ____________, Living Will Declarant, and ____________ and ____________, known to me to be witnesses whose names are each signed to the foregoing instrument, and all these persons being first duly sworn, ____________, Living Will Declarant, declared to me and to the witnesses in my presence that the instrument is the Living Will Declaration of the declarant and that the declarant has willingly signed and that such declarant executed it as a free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence and hearing of the Living Will Declarant, that the declarant signed the declaration as witness and to the best of such witness's knowledge, the Living Will Declarant was eighteen (18) years of age or over; of sound mind and under no constraint or undue influence.

________________________

*Living Will Declarant*

________________________

*Witness*

________________________

*Address*

________________________

*Witness*

________________________

*Address*

*Subscribed, sworn to and acknowledged before me by ____________ and ____________, Living Will Declarant, and subscribed and sworn before me by ____________ and ____________, witnesses, on this the ____ day of ________* (year).

________________________

*Notary Public.State At Large*

________________________

*Date my commission expires*

*(3) A written declaration shall be signed by the declarant in the presence of two (2) subscribing witnesses. In no instance shall any of the following be a witness to any declaration made under this Act:*

*(a) A blood relative who would be a beneficiary of the declarant; or*

*(b) A beneficiary of the declarant under descent and distribution statutes of the Commonwealth; or*

*(c) An employe of a health care facility in which the declarant is a patient; or*

*(d) An attending physician of the declarant; or*

*(e) Any person directly financially responsible for the declarant's health care.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*It shall be the responsibility of the declarant to provide for notification to the declarant's attending physician that a declaration has been made. In the event the declarant is comatose, incompetent or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of a declaration. An attending physician who is so notified shall promptly make the declaration or a copy of the declaration a part of the declarant's medical records.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) A declaration may be revoked by:*

*(a) A writing declaring an intention to revoke, which writing shall be signed and dated by the declarant; or*

*(b) An oral statement by the declarant of an intent to revoke; or*

*(c) The declarant or by some person in the declarant's presence and at the declarant's direction, by cutting, tearing, burning, obliterating, canceling, or destroying the declaration, or the signature thereto, with the intent to revoke.*

*(2) An oral statement by the declarant to revoke a declaration shall override any previous written declaration made.*

*(3) Any such revocation shall become effective immediately. An attending physician or health care facility shall not be required to administer treatment in accordance with the revocation until such time as notice of the revocation is received. Upon receiving notice of the revocation, the attending physician or health care facility shall record, in the declarant's medical record, the time, date and place of such notice receipt. No physician or health care facility shall be subject to any liability for acting in good faith upon the knowledge, or lack thereof, of the existence or revocation of a declaration.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) A health care facility, physician or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-prolonging treatment from a patient in a terminal condition in accordance with this Act. A person who authorizes the withholding or withdrawal of life-prolonging*

*treatment from a patient in a terminal condition in accordance with a declaration shall not be subject to criminal prosecution or civil liability for such action.*

*(2) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the withholding or withdrawal of life-prolonging treatment did not, in good faith, comply with the provisions of this Act. A declaration made in accordance with Section 3 of this Act shall be presumed to have been made voluntarily and validly executed unless the attending physician or health care facility has actual knowledge to the contrary.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) Where an individual has been diagnosed as having a terminal condition and has executed a declaration, prior to or at the time of admission to a health care facility, the individual or the family or guardian of the individual shall inform the attending physician and health care facility of the existence of a declaration. An attending physician or health care facility which refuses to comply with the declaration of a qualified patient shall immediately inform the patient and the family or guardian of the patient of such refusal. No physician or health care facility which refuses to comply with the declaration of a qualified patient shall impede the transfer of such patient to another physician or health care facility which will comply with the declaration. In cases where the patient, the family, or the guardian of the patient, has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance, as may be medically necessary for the continued care of the patient, to the receiving physician and health care facility.*

*(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the declaration of a qualified patient on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a qualified patient as long as the physician, nurse staff member or employee complies with the requirements of subsection (1) of this section regarding patient notification and patient transfer.*

*(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member or employee who refuses to comply with the declaration of a qualified patient and provided the person complies with the provisions of subsections (1) and (2) of this section.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*Nothing in this Act shall be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act to end life other than to permit the natural process of dying.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) The withholding or withdrawal of life-prolonging treatment from a qualified patient in accordance with the provisions of this Act shall not, for any purpose, constitute a suicide. Nor shall the making of a declaration pursuant to Section 3 of this Act affect the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated by the withholding or withdrawal of life-prolonging treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.*

*(2) No physician, health care facility, or other health care provider shall require any person to make a declaration as a condition of receiving health care services. No contract for health insurance, or disability insurance, or credit health insurance or insurance under any nonprofit hospital, medical-surgical, dental and health service corporation, or any self-insured private employer group plan, or any health maintenance organization as provided under KRS Chapter 304 shall require any person to make a declaration as a condition of being insured for health care services; neither shall any of the aforementioned health insurance contracts or plans be legally impaired or invalidated in any manner by the making of a declaration or the withholding or withdrawal of life-prolonging treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) This Act creates no presumption concerning the intention of an adult who has revoked or has not executed a declaration with respect to the use, withholding, or withdrawal of life-prolonging treatment in the event of a terminal condition.*

*(2) This Act shall not affect the common law or statutory right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any common law or statutory right that an adult has to effect the withholding or withdrawal of medical care.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***(1) Any person who willfully conceals, cancels, defaces, obliterates, or damages the declaration of another without the declarant's consent or who falsifies or forges a revocation of the declaration of another, thereby causing life-prolonging treatment to be utilized in contravention of the previously expressed intent of the patient shall be civilly liable.***

***(2) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-prolonging treatment, contrary to the wishes of the declarant, and thereby, because of such act, directly cause life-prolonging treatment to be withheld or withdrawn and death to be hastened, shall be guilty of a Class B felony.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***This Act may be cited as the "Kentucky Living Will Act."***

Representative Scorsone moved that the House concur in the Senate Committee Substitute to **HB 113**.

Representative Scorsone moved that **HB 113** with the Senate Committee Substitute attached thereto, be laid on the Clerk's Desk. Agreed.

Representative Scorsone moved that **HB 113** with the Senate Committee Substitute attached thereto, be placed in the Regular Orders of the Day, March 13, 1990. Agreed.

**HB 544**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 544** is as follows:

Amend printed copy of **HB 544** on page 1, line 14, after "***subcommittee***" by inserting the words "***on or before March 1***" and

on page 1, line 17, after "***Assembly.***" by inserting the words "***If an administrative regulation is found deficient by a legislative subcommittee after March 1, it shall expire on adjournment of the next succeeding regular session of the General Assembly.***"

Representative Stumbo moved that the House refuse to concur in Senate Amendment No. 1 to **HB 544**. Agreed

### Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

### Motions, Petitions and Communications

Representative Long moved that the rules be suspended to act upon a Conference Committee Report. Agreed.

Representative Long moved that the Conference Committee Report on **HB 112** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 112**.

Representative Farrow moved the adoption of the following **HR 202**:

**HR 202**, A RESOLUTION honoring the Georgetown College mens' basketball team.

WHEREAS, top seeded Georgetown blew away Transylvania, 83-64, to win the NAIA District 32 Championship on the night of March 7th; and

WHEREAS, the Georgetown Tigers will take a 26-6 record into the weeklong 32-team NAIA tournament next week at Kansas City, Missouri; and

WHEREAS, with the win over Transylvania, the Tigers won their ninth game in a row and extended their home game winning streak to 32; and

WHEREAS, this will be the Georgetown Tigers' second trip to Kansas City in four years, where they have reached the final four on three occasions;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body congratulates head coach Jim Reid, assistant coaches Happy Osborne, Bill Sargent and Steve Weir, together with their outstanding players for their achievements to date.

Section 2. That the House of Representatives wishes them well in Kansas City and cheers their efforts to bring home an NAIA championship trophy.

Section 3. That the Clerk of the House dispatch copies of the resolution to head coach Jim Reid at Georgetown College, Kentucky.

**HR 202** was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Report of Committees

The Committee on Rules reported **HB 707**, **HB 715**, **HB 723**, **HB 724**, **HB 731**, **HB 745**, **HB 755**, **HB 765**, **HB 783**, **HB 800**, **HB 803**, **HB 809**, **HB 818**, **HB 898**, **HB 911**, **HB 461**, **HB 526**, **HB 676**, **HB 688**, **HB 771**, **HB 495**, **HB 718**, **HB 719**, **HB 735**, **HB 738**, **HB 839**, **HB 840**, **HB 841**, **HB 157**, **HB 51**, **HB 262**, **HB 349**, **HB 406**, **HB 446**, **HB 464**, **HB 474**, **HB 480**, **HB 540**, **HB 549**, **HB 559**, **HB 580**, **HB 601**, **HB 635**, **HB 644**, **HB 677**, **HB 678**, **HB 696** and **HB 701** have been posted for passage in Orders of the Day, March 13, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, March 13, 1990: **HB 500**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 327**, **HB 611**, **HB 667**, **HB 938**.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolution have been posted for Committee consideration:

Transportation: **HB 761**, **HB 405**.

Health and Welfare: **SB 233**.

Appropriations and Revenue: **HB 3**, **HB 126**, **HB 402**, **HB 670**, **HB 693**, **HCR 166**, **SB 41**, **SB 297**, **SB 298**, **SB 174**, **HB 346**, **HB 634**, **HB 786**.

State Government: **HB 833**, **HB 844**, **HB 846**, **HB 925**, **HB 876**, **HB 877**, **HB 879**, **HB 812**.

Labor and Industry: **HB 852**.

Education: **HB 878**, **HB 940**.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

**HB 82**, Representative Barrows; **HB 285**, Representative Noe; **HB 529**, Representatives Blevins, Lefevers; **HB 534**, Representative Ackerson; **HB 603**, Representative Ackerson; **HB 653**, Representatives Bruce, Hancock, Maggard; **HB 664**, Representative Keith; **HB 669**, Representative Keith; **HB 687**, Representative Riner; **HB 695**, Representative Bruce; **HB 807**, Representative Ackerson; **HB 808**, Representatives Blevins, Scorsone; **HB 810**, Representatives Arnold, P. Clark, Moberly; **HB 939**, Representative Donnermeyer; **HJR 137**, Representative Worthington.

Representative Yates moved that **HB 90** be withdrawn. Agreed.

Representative Clarke moved that **HB 322** be withdrawn. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 444** and **HB 603**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **HB 687** and **HB 639**. Agreed.

Representative Freibert moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that she be recorded as voting "yea" on **HB 603**. Agreed.

Representative Siler moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Siler moved that his vote be changed from "nay" to "yea" on **HB 164**, **HB 536** and **HB 653**. Agreed.

Representative Mullinix moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mullinix moved that he be recorded as voting "nay" on **HB 709**. Agreed.

Representative Bruce moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that he be recorded as voting "yea" on **HB 653**. Agreed.

Representative T. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Jones moved that his vote be changed from "yea" to "nay" on **HB 709**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "yea" to "nay" on **HB 709**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "nay" to "yea" on **HB 653**. Agreed.

Representative Ford moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that his vote be changed from "yea" to "nay" on **HB 709**. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "nay" on **HB 536**. Agreed.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 830**, by Representative T. Jones:

Amend printed copy of **HB 830** on page 15, after line 11 and before line 12, insert the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

***An applicant for a permit issued in accordance with the provisions of KRS 350.060 on property owned by the Commonwealth of Kentucky and used as a research facility shall be subject by the cabinet to a fee of one-hundred thousand dollars ($100,000) per acre for preparation of an environmental impact statement. The environmental impact statement shall include a detailed statement, prepared pursuant to the guidelines specified in the National Environmental Policy Act (P.L. 91-190 as amended).***"

On page 15, line 12, delete "SECTION 8." and insert in lieu thereof "SECTION 9.".

Floor Amendment No. 2 to **SB 146**, by Representative Gedling:

Amend printed copy of **SB 146** on page 1, line 17, by deleting "***twenty-five***" and inserting in lieu thereof "***fifty***" and by deleting "***($25)***" and inserting in lieu thereof "***($50)***";

And on page 3, line 6, by deleting "*twenty-five*" and inserting in lieu thereof "*fifty*" and by deleting "*($25)*" and inserting in lieu thereof "*($50)*.

Floor Amendment No. 2 to **SB 72**, by Representative Barrows:

Amend printed copy of **SB 72** on page 13, line 2, by deleting line 2 in its entirety and inserting in lieu thereof the following:

"***charitable or non-profit institution which qualifies under Section 501 (c) (3) of the Internal Revenue Code, as amended, or any recognized educational institution. However, no excess campaign funds shall be donated to any entity in which the candidate currently holds or has previously held, any office, position, affiliation, or personal interest, either direct or indirect, which may result in a personal economic benefit to the candidate.***"

Floor Amendment No. 2 to the Committee Substitute to **HB 429**, by Representative Lear:

Amend printed copy of HCS to **HB 429** on page 2, line 3, delete "***secretary of revenue***" and remove bracket and strike through from "circuit"

line 4, remove strike through from "court of his county, upon petition of" and insert thereafter a beginning bracket before "the" and a closing bracket after "or" and remove strike through from "any"

line 5, remove strike through and bracket after "taxpayer," and insert thereafter: "***or by the secretary of revenue***"

On page 6, line 2, delete in its entirety after "***who***" and insert after "***who***" the following:

"***knowingly aids and abets any person who intentionally misstates***"

line 3, delete "***knowledge that***" and delete "***is***"

on line 4, delete "***misstated***".

Floor Amendment No. 1 to **SB 82**, by Representative Richards:

Amend printed copy of **SB 82** on page 1, line 4, by bracketing and striking through the word "position" and by substituting therefor the word "***positions***"; and

On page 1, line 4, by adding after the word "officer" and before the parenthesis the words "***, and Commonwealth detective***".

Floor Amendment No. 1 to **SB 136**, by Representative Arnold:

Amend printed copy of **SB 136** on page 10, line 24, by deleting "***seven (7)***" and inserting in lieu thereof "***eight (8)***";

And on page 11, line 2, after the word "***pulmonologists,***" by inserting "***one (1) shall be a hospital administrator chosen from a list of three (3) submitted by the Kentucky Hospital Association,***";

And on page 4, after line 3, by inserting the following:

"***(e) A "respiratory care assistant" means an individual appropriately trained and employed by a licensed health facility which performs respiratory care procedures under the supervision of a respiratory therapist or a respiratory care technician.***";

And on page 9, after line 7, by inserting the following:

"***(e) Respiratory care assistants shall apply to the board for a limited mandatory certificate to perform respiratory care procedures under the supervision of a respiratory therapist or a respiratory care technician. This limited mandatory certificate excludes the performance of continuous mechanical or physiological ventilatory set up.***".

Floor Amendment No. 1 to **HB 732**, by Representative K. Harper:

Amend printed copy of **HB 732** on page 1, line 18, after the word "first" by placing brackets and striking through the words ", second, third, or fourth" and by inserting in lieu thereof, the words "***through the fifth***";

On page 2, lines 3 and 4, after the word "first" by placing brackets and striking through the words ", second, third, or fourth" and by inserting in lieu thereof, the words "***through the fifth***";

On page 2, line 12, after the word "first" by placing brackets and striking through the words ", second, third, or fourth" and by inserting in lieu thereof, the words "***through the fifth***";

On page 2, line 21, after the word "first" by removing the comma "***,***"

On page 2, line 22, by removing the brackets and strikethroughs around the word "or"

On page 2, line 22, after the word "second," by removing the words "***or third***";

On page 2, line 22, by placing brackets and strikethroughs around the phrase "or second class" and inserting in lieu thereof the words "***through the fifth class***";

On page 3, line 5, after the word "first" by removing the comma "***,***"

On page 3, line 6, by removing the brackets and strikethroughs around the word "or"

On page 3, line 6, after the word "second," by removing the words "***or third***";

On page 3, line 6, by placing brackets and strikethroughs around the phrase "or second class" and inserting in lieu thereof the words "***through the fifth class***";

On page 3, line 15, after the word "first" by deleting the comma "***,***";

On page 3, line 16, by removing the brackets and strikethroughs around the word "or";

On page 3, line 16, after the word "second," by removing the words "***or third***";

On page 3, line 16, by placing brackets and strikethroughs around the phrase "or second class" and inserting in lieu thereof the words "***through the fifth class***";

On page 4, line 16, after the word "***first***" by deleting the words "***, second or third class***" and inserting in lieu thereof the words "***through the fifth class***";

On page 4, line 25, after the word "fourth" by inserting the words "***or fifth***"

Floor Amendment No. 1 to the Committee Substitute to **HB 521**, by Representative T. Jones:

Amend printed copy of HCS to **HB 521** on page 2, line 2, by bracketing and striking through the word "or";

line 6, by inserting a "***;***" after the word "government" bracketing and striking through the period "." and adding the word "***or***";

after line 6, by adding the following:

"***(e) Property of any free public library.***".

Floor Amendment No. 1 to **HB 738**, by Representative Priddy:

Amend printed copy of **HB 738** on page 1, line 4, after the word "***a***" and before the word "***year***" by deleting the new language "***five (5)***" and by inserting in lieu thereof the new language "***ten (10)***"; and

On page 1, line 9, before the word "***year***" by deleting the new language "***five (5)***" and by inserting in lieu thereof the new language "***ten (10)***"; and

On page 1, line 9, after the word "***period***" and before the word "***if***" by inserting the new language: "***if the extension period shall not extend beyond the existence of the enterprise zone, and***"; and

On page 2, line 6, after the word "***additional***" and before the word "***year***" by deleting the new language: "***five (5)***" and inserting in lieu thereof the new language: "***ten (10)***".

The Clerk announced the following meetings:

The Committee on Health and Welfare, today, upon adjournment.

The Committee on Agriculture and Small Business, 9:00 a.m., March 13, 1990.

### Adjournment

Representative Stumbo moved that the House adjourn until 1:00 p.m., Tuesday, March 13, 1990.

On the roll call the vote was yeas 91—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 2—Bronger, LeMaster.

The motion to adjourn was adopted.

## TUESDAY, MARCH 13, 1990

## FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. C. Mackey Daniels, West Chestnut Street Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Jensen.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 12, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 310**, **SB 313**, **SB 371**, **SCR 105** and **HB 12** with Senate Amendment.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 23**, **HB 67**, **HB 89**, **HB 97**, **HB 191**, **HB 175**, **HB 231**, **HB 297**, **HB 356**, **HB 362**, **HB 371**, **HB 431**, **HB 434**, **HB 445**, **HB 470**, **HB 476**, **HCR 4**, **HCR 9**, **HJR 105**, **HB 46** and **HB 241** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 1:06 p.m.)

**HB 23**, **HB 67**, **HB 89**, **HB 97**, **HB 191**, **HB 175**, **HB 231**, **HB 297**, **HB 356**, **HB 362**, **HB 371**, **HB 431**, **HB 434**, **HB 445**, **HB 470**, **HB 476**, **HCR 4**, **HCR 9**, **HJR 105**, **HB 46** and **HB 241** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 82**, **SB 132**, **SB 318**, **SB 319**, **SB 331**.

Business Organizations and Professions: **SB 321**.

Cities: **SCR 109**.

Economic Development and Tourism: **SJR 110**.

Health and Welfare: **SB 159**, **SB 347**.

Judiciary: **SB 300**, **SB 322**, **SCR 95**.

Labor and Industry: **SB 333**.

### Posting of Bills and Resolutions foderation

The Clerk announced the following Bill and Resolution have been posted for Committee consideration:

Cities: **SCR 109**.

Energy: **SB 320**.

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Banking and Insurance: **SB 150**.

Energy: **HB 936**.

### Report of Committees

The Committee on Agriculture and Small Business reported **SB 240** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 240**, AN ACT relating to unfair cigarette sales.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***(1) The General Assembly hereby finds and declares as follows:***

***(a) Cigarettes, because of their standardized character, their great popularity, their widespread and varied types of markets and methods of distribution and the sensitivity of their distribution to price fluctuations, possess a distinct marketing character and, the economic facts and circumstances peculiar to their distribution, require special and individualized treatment of the problems created by the sale of cigarettes below cost.***

***(b) The sale of cigarettes below cost for the purpose of destroying or substantially lessening competition is inimical to the orderly and efficient collection by the Commonwealth of excise taxes on cigarettes and taxes from the licensing of persons engaged in the sale of cigarettes at wholesale and retail.***

***(c) The sale of cigarettes below cost for the purpose of destroying or substantially lessening competition is an unfair business practice, which tends to be disorganizing in the sale and distribution of cigarettes, and ultimately fosters monopoly and high prices by tending to force independent wholesalers and retailers out of business.***

***(2) The General Assembly hereby declares it to be the policy of this Commonwealth to promote the public welfare by prohibiting the sale of cigarettes below cost, and it is the purpose of Section 3 of this Act to carry out that policy in the public interest.***

Section 2. KRS 365.270 is amended to read as follows:

***As used in this Act, unless the context otherwise requires*** [~~When used in any part of KRS 365.260 to 365.380, the following words, terms and phrases and any variations thereof required by the context, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning~~]:

(1) "Person" ***means*** [~~shall mean~~] and ***includes*** [~~include~~] any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this State, trust, receiver, trustee, fiduciary, ***or*** conservator.

(2) "Secretary" ***means*** [~~shall mean~~] the secretary of the Revenue Cabinet of the Commonwealth of Kentucky.

(3) "Cabinet" ***means*** [~~shall mean~~] the Revenue Cabinet.

(4) "Cigarettes" ***means*** [~~shall mean~~] and ***includes*** [~~include~~] any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not ***the*** [~~such~~] tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" ***means*** [~~shall mean~~] any person[~~, wherever resident or located,~~] who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and [~~it~~] includes any manufacturer, distributor, jobber, ***sub-jobber as defined in KRS 138.130(11),*** broker, agent or other person, whether or not enumerated in this subsection, who [~~so~~] sells or [~~so~~] distributes cigarettes.

(6) "Retailer" ***means*** [~~shall mean~~] and ***includes*** [~~include~~] any person who sells cigarettes in this State to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" ***means*** [~~shall mean~~] any transfer for [~~a~~] consideration ***or***[~~, exchange, barter,~~] gift[~~, offer for sale, advertising for sale, soliciting an order for cigarettes and distribution in any manner or by any means whatsoever~~].

(8) "Sell at wholesale," "sale at wholesale" and "wholesale sales" ***means*** [~~shall mean~~] and ***includes*** [~~include~~] any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" ***means*** [~~shall mean~~] and ***includes*** [~~include~~] any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" ***means*** [~~shall mean whichever of the two following amounts is lower, namely, (a)~~] the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, [~~or (b) the lowest replacement cost of cigarettes to the wholesaler or retailer, as the case may be, within thirty days prior to the date of sale, in the quantity last purchased whether within or before the said thirty-day period,~~] less[~~; in either of~~

~~said two cases,~~] all trade discounts, except customary ***cash*** discounts [~~for cash~~], plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" ***means*** [~~shall mean~~] the basic cost of the cigarettes involved to the wholesaler plus the cost of doing ***cigarette*** business by the wholesaler. ***In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying***[~~, as evidenced by~~] the standards and methods of accounting regularly employed by him, and ***includes*** [~~must include, without limitation,~~] labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising. ***The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.***

(b) In the absence of proof of a lesser or higher cost of doing ***cigarette*** business by the wholesaler making the sale, the cost of doing ***cigarette*** business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the [~~said~~] cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer.[~~, which~~] Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (.75%) of the basic cost of the [~~said~~] cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" ***means*** [~~shall mean~~] the basic cost of cigarettes involved to the retailer plus the cost of doing ***cigarette*** business by the retailer. ***In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying*** [~~as evidenced by~~] the standards and methods of accounting regularly employed by him and ***includes*** [~~must include, without limitation,~~] labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising. ***The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.***

(b) In the absence of proof of a lesser or higher cost of doing ***cigarette*** business by the retailer making the sale, the cost of doing ***cigarette*** business by the [~~said~~] retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the [~~said~~] retailer.

[~~(c) In the case of any retailer who in connection with the said retailers purchase of any cigarettes shall receive not only the discounts ordinarily allowed upon purchases by a retailer, but also in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the said retailer with respect to the said cigarettes shall be, in the absence of proof of a lesser or higher cost of doing business by the said retailer, the sum of the cost of doing business by the retailer and, to the extent that he shall have received the full discounts ordinarily allowed to a wholesaler, the cost of doing business by a wholesaler as hereinabove defined in subsection (11)(b).~~]

Section 3. KRS 365.280 is amended to read as follows:

(1) It shall be unlawful for any wholesaler or retailer[~~, with intent to injure competitors or destroy or substantially lessen competition, to advertise, offer~~] to sell[~~, or sell~~], at wholesale or retail, cigarettes at less than cost to ***the*** [~~such~~] wholesaler or retailer, as the case may be, as defined in this KRS 365.260 to 365.380, ***for the purpose of destroying competition or substantially lessening competition*** [~~It shall be unlawful for any wholesaler or retailer with intent to injure competitors or destroy or substantially lessen competition to offer a rebate in price, to give a rebate in price, to offer a concession of any kind or to give a concession of any kind or nature whatsoever in connection with the sale of cigarettes. It shall be unlawful for any retail dealer to induce or attempt to induce or to procure or attempt to procure the purchase of cigarettes at a price less than "cost to wholesaler" and it shall be unlawful for any retail dealer to induce or attempt to induce or to procure or attempt to procure any rebate or concession of any kind or nature whatsoever in connection with the purchase of cigarettes~~].

***(2)*** Any wholesaler or retailer who violates the provisions of this section shall be ***fined*** [~~guilty of a misdemeanor and be punishable by fine of~~] not more than ***one thousand*** [~~five hundred~~] dollars ***($1000)*** [~~($500)~~]. ***Each sale or purchase by a wholesaler or retailer, as the case may be, at less than cost, shall be treated as a separate violation.***

***(3)***[~~(2) Evidence of advertisement, offering to sell, or~~] Sale of cigarettes by any wholesaler or retailer at less than cost to him[~~, or evidence of any offer of a rebate in price or the giving of a rebate in price or an offer of a concession or the giving of a concession of any kind or nature whatsoever in connection with the sale of cigarettes or the inducing or attempt to induce or the procuring or the attempt to procure the~~

~~purchase of cigarettes at a price less than cost to the wholesaler or the retailer, as defined in this KRS 365.260 to 365.380,~~] shall be prima facie evidence of intent to [~~injure competitors and to~~] destroy or substantially lessen competition.

Section 4. KRS 365.290 is amended to read as follows:

In all [~~advertisements, offers for sale or~~] sales involving two or more items, at least one (1) of which items is cigarettes, at a combined price, and in all [~~advertisements, offers for sale, or~~] sales, involving the giving of any gift or concession of any kind, [~~whatsoever~~] whether it be coupons or otherwise, the wholesaler's or retailer's combined selling price shall not be below the cost to the wholesaler or the cost to the retailer, respectively, of the total of all articles, products, commodities, gifts and concessions included in ***the*** [~~such~~] transactions, except that if any [~~such~~] articles, products, commodities, gifts or concessions, ***are*** [~~shall~~] not [~~be~~] cigarettes, the basic cost thereof shall be determined in like manner as provided in KRS 365.270 (10).

Section 5. KRS 365.300 is amended to read as follows:

When one (1) wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter, "cost to the wholesaler," as provided by KRS 365.270***(11)***, but the latter wholesaler, upon resale to a retailer, shall be subject to the provisions of ***KRS 365.270(11)*** [~~said section~~].

Section 6. KRS 365.310 is amended to read as follows:

The provisions of KRS 365.260 to 365.380 shall not apply to a sale at wholesale or a sale at retail made:

***(1)***[~~(a)~~] In an isolated transaction and not in the usual course of business;

***(2)***[~~(b)~~] Where cigarettes are [~~advertised, offered for sale, or~~] sold in a bona fide clearance sale for the purpose of discontinuing trade in ***the*** [~~such~~] cigarettes [~~and said advertising, offer to sell, or sale shall state the reason thereof and the quantity of such cigarettes advertised, offered for sale, or to be sold~~];

***(3)***[~~(c)~~] Where cigarettes are [~~advertised, offered for sale, or~~] sold as imperfect or damaged[~~, and said advertising, offer to sell, or sale shall state the reason therefor and the quantity of such cigarettes advertised, offered for sale, or to be sold~~];

***(4)***[~~(d)~~] Where cigarettes are sold upon the final liquidation of a business; or

***(5)***[~~(e)~~] Where cigarettes are [~~advertised, offered for sale, or~~] sold by any fiduciary or other officer acting under the order or direction of any court.

Section 7. KRS 365.320 is amended to read as follows:

(1) Any wholesaler may [~~advertise, offer to sell or~~] sell cigarettes ***to a regular customer*** at a price made in good faith to meet the ***legal*** price of a competitor ***selling to the same customer*** [~~who is rendering the same type of service and is selling the same article at cost to the said competing wholesaler as defined by KRS 365.260 to 365.380~~]. Any retailer may [~~advertise, offer to sell or~~] sell cigarettes at a price made in good faith to meet the ***legal*** price of a competitor [~~who is selling the same article at cost to the said competing retailer as defined in KRS 365.260 to 365.380~~]. The price of cigarettes [~~advertised, offered for sale, or~~] sold under the exceptions specified in KRS 365.310 shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a ***bankruptcy*** [~~bankrupt~~] sale be considered the price of a competitor within the purview of this section.

(2) In the absence of proof of the actual cost to the [~~said~~] competing wholesaler or to the [~~said~~] competing retailer, as the case may be, ***the*** [~~such~~] cost may be presumed to be the lowest cost to ***the*** wholesaler or the lowest cost to ***the*** retailer, as the case may be, within the same trading area as determined by a cost survey made pursuant to KRS 365.360(2).

Section 8. KRS 365.330 is amended to read as follows:

Any contract, express or implied, made by any person in violation of any of the provisions of KRS 365.260 to 365.380, ***shall be*** [~~is illegal and~~] void and no recovery shall be had thereon.

Section 9. KRS 365.350 is amended to read as follows:

(1) The [~~state revenue~~] cabinet, or any person injured by any violation, or who ***may*** [~~would~~] suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin ***the*** [~~such~~] violation or threatened violation. If [~~in such action~~] a violation or threatened violation of KRS 365.260 to 365.380 shall be established***,*** the court shall enjoin and restrain, or otherwise prohibit, ***the*** [~~such~~] violations or threatened violation.[~~, and~~] In addition [~~thereto~~], the court shall assess in favor of the plaintiff and against the defendant the cost of ***the*** suit***,*** including reasonable

attorney's fees. [~~In such action~~] It shall not be necessary that actual damages to the plaintiff be alleged or proved, but ***if*** [~~where~~] alleged and proved, the plaintiff in ***the*** [~~said~~] action, in addition to [~~such~~] injunctive relief***, the*** [~~and~~] costs of ***the*** suit, ***and*** [~~including~~] reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) ***If*** [~~In the event that~~] no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and ***the*** costs of suit in any court of general jurisdiction.

Section 10. KRS 365.360 is amended to read as follows:

(1) In determining cost to the wholesaler and cost to the retailer***,*** the court shall receive and consider as bearing on the bona fides of ***the*** [~~such~~] cost, evidence tending to show that any person complained against under any of the provisions of KRS 365.260 to 365.380 purchased the cigarettes involved in the complaint [~~before the court~~], at a fictitious price, or upon the terms, or in [~~such~~] a manner, or under such invoices, as to conceal the true cost, discounts or terms of ***the*** purchase, and shall also receive and consider as bearing on the bona fides of ***the*** [~~such~~] cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state.

(2) ***If*** [~~Where~~] a cost survey pursuant to recognized statistical and cost accounting practices has been made for the trading area in which a violation of KRS 365.260 to 365.380 is committed or charged[~~,~~] to determine and establish on the basis of actual existing conditions the lowest cost to wholesalers or the lowest cost to retailers within the [~~said~~] area, the [~~said~~] cost survey shall be deemed competent evidence in any action or proceeding under KRS 365.260 to 365.380 as tending to prove actual cost to the wholesaler or actual cost to the retailer complained against***.***[~~, but~~] Any party against whom any [~~such~~] cost survey may be introduced in evidence shall have the right to offer evidence tending to prove any inaccuracy of ***the*** [~~such~~] cost survey or any [~~state of~~] facts which ***may*** [~~would~~] impair its probative value.

Section 11. KRS 365.370 is amended to read as follows:

(1) The [~~revenue~~] cabinet shall ***promulgate administrative*** [~~prescribe, adopt, and enforce rules and~~] regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or [~~such~~] trading area or areas as it defines. When each [~~such~~] survey is made by or approved by the cabinet, it ***may*** [~~is permissible to~~] use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The cabinet may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the ***administrative*** [~~rules and~~] regulations of the cabinet promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any ***administrative*** [~~rule or~~] regulation adopted thereunder.

(3) All of the powers vested in the secretary and Revenue Cabinet by the provisions of the cigarette tax law ***shall be*** [~~are~~] available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order or finding of the cabinet, suspending or revoking any [~~such~~] license, may appeal [~~therefrom~~] to the Kentucky Board of Tax Appeals [~~as provided by law~~] by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by ***administrative regulation*** [~~rules~~] prescribe.

[~~(5) The judgment or order of the board may be reviewed by a court of competent jurisdiction in the Commonwealth.~~]

Section 12. KRS 365.380 is amended to read as follows:

(1) [~~After the effective date of KRS 365.260 to 365.380,~~] No person shall engage in or conduct the business of purchasing for resale or selling cigarettes without having first obtained the appropriate license [~~for that purpose~~].

(2) ***No*** [~~Any~~] person licensed only as a wholesaler shall [~~not~~] operate as a retailer unless the appropriate license [~~therefor~~] is first secured.

***(3) No*** [~~, and any~~] person licensed only as a retailer shall [~~not~~] operate as a wholesaler unless the appropriate license [~~therefor~~] is first secured.

The Committee on Agriculture and Small Business reported **SB 271** and **HB 828** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**SB 271,** AN ACT relating to agricultural chemical usage.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 151.110 is amended to read as follows:

*(1)* The conservation, development and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for varied industrial, municipal and recreational uses. It is recognized by the general assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail industrial, municipal, agricultural and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote and to regulate the conservation, development and most beneficial use of the water resources. It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical or other support for projects that will control and store our water resources in order that the continued growth and development of the Commonwealth might be assured. To that end, it is declared to be the purpose of KRS Chapters 146, 149, 151, 224, 262 and KRS 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the ground water resources of the Commonwealth; to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses and reasonably regulate the amount of withdrawal of public water; and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky.

***(2) It is a finding of the General Assembly that groundwater is an important but vulnerable natural resource of this state, that the majority of rural Kentuckians rely exclusively on groundwater for drinking and that groundwater is inextricably linked to surface waters which may also serve as a drinking water resource. It is also a finding that groundwater is a resource equally vital for agricultural, commercial and industrial purposes and that useable groundwater is critical to the future development of these industries. Therefore, it shall be the policy of this state to manage groundwater for the health, welfare, and economic prosperity of all citizens.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

***The College of Agriculture of the University of Kentucky, through the agricultural experiment station and the cooperative extension service shall assess the effect of agricultural practices upon groundwater resources, establish basic and applied research programs to determine agricultural management practices which may be necessary to protect groundwater resources and establish and implement an educational program to encourage the use of agricultural practices which conserve, maintain and improve soil productivity and to assure protection of groundwater. The college shall seek the cooperation of the Division of Conservation within the Natural Resources and Environmental Protection Cabinet, the Kentucky Farm Bureau and other organizations in implementing the educational program.***

Section 3. KRS 217B.210 is amended to read as follows:

*(1)* The department may publish information and conduct short courses of instruction in the safe use and application of pesticides.

***(2) The department shall, at least once each year, review and update, to incorporate current information, the license examinations given by the department and all training courses approved by the department.***

***(3) The department shall revise the license applications given by the department, all training courses approved by the department, and all educational materials to include information on preventing contamination of groundwater.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***The cabinet shall implement a program to provide technical assistance to counties, cities and urban-county governments that seek to develop programs to accept and dispose of non-industrial surplus agricultural chemicals and containers. The technical assistance shall include, but not be limited to, availability of on-site analysis of chemicals and containers, availability of regulated transporters and recycling or disposal facilities and methods of increasing public participation.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

***When the cabinet develops administrative regulations for the protection of groundwater, the Agricultural Experiment Station and the Cooperative Extension Service of the University of Kentucky, the Division of Conservation within the cabinet and representatives of production agriculture shall be given the opportunity to actively participate in the development of the administrative regulations.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

***(1) No person engaged in farming who has applied or used or arranged for the application or use of any fertilizer, plant growth regulator, or pesticide as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, shall be responsible or liable without proof of negligence or lack of due care, for any damages or response costs relating to any direct or indirect discharge or release into, or actual or threatened pollution of, the land, waters, air, or other resources of the state that is or may be associated with or resulting from the application or use, provided that:***

***(a) The application or use was in a manner consistent with the labeling of the fertilizer, plant growth regulator, or pesticide and in accordance with acceptable agricultural management practices and all applicable state and federal laws and regulations at the time of the application or use;***

***(b) The state or federal government, or any of its agencies, had approved, recommended, or permitted the application or use and there is no finding that any conditions of the approval, recommendation, or permit were violated, or that warnings or limitations regarding the application or use were ignored; and***

***(c) The fertilizer, plant growth regulator, or pesticide was licensed by or registered with the state or federal government at the time of the application or use and the person, firm, or corporation knew of no special geological, hydrological, or soil type condition existing on the land which rendered the application or use likely to cause pollution. No person, firm, or corporation shall be liable based solely on ownership of the land where the application or use took place.***

***(2) For the purposes of this section, farming means the cultivation of land used for the production of agricultural crops, livestock or livestock products, forestry or forestry products, milk or dairy products, poultry or poultry products, aquaculture or aquacultural products, and horticulture or horticultural products.***

***(3) Nothing in this Act shall be construed to prohibit any cause of action based on strict tort liability against any manufacturer of the fertilizer, plant growth regulator, or pesticide.***

***(4) Any and all ordinances of any unit of local government now in effect or hereafter adopted that are in conflict with this Act shall be void.***

**HB 828,** AN ACT relating to land use for public purposes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 109.041 is amended to read as follows:

(1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may plan, initiate, acquire, construct and maintain solid waste management facilities and promulgate [~~rules and~~] regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.

(2) No sanitary landfill shall be acquired and constructed until the construction thereof has been approved in writing by the department. Planning for sanitary landfills shall be conducted only in accordance with the policy set forth in KRS 109.011(7).

(3) Except as provided in KRS 109.062, no county or waste management district shall prohibit or otherwise restrict the resource recovery of materials by:

(a) Any resource recovery operation in existence in the county or district on the effective date of the mandatory program;

(b) Any person supplying material to resource recovery operations on the effective date of the mandatory program;

(c) Any new resource recovery operation that reclaims the same type of materials as resource recovery operations included in paragraph (a) of this subsection;

(d) Any new suppliers to resource recovery operations included in paragraphs (a) and (c) of this subsection;

(e) Any resource recovery operation for glass, plastic or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the resource recovery of glass, plastic or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such resource recovery facility in the county or district; or

(f) Any other resource recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.

(4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868, ***other than sludge from water and waste water treatment facilities,*** or solid waste from agricultural or mining operations.

(5) Any county undertaking the planning, implementation, construction, installation, acquisition and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility, including the authority to promulgate, enforce and collect reasonable rates, rentals and charges for the use of such solid waste management facility.

(6) Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.

(7) Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.

(8) Counties are authorized to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the department.

(9) Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.

(10) In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations promulgated by the department on waste management pursuant to KRS Chapter 224.

(11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.

(12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.

(13) Notwithstanding any other provision of law, a fiscal court may, by ordinance, create a solid waste district to exercise the powers of the county pursuant to this chapter, except that a district created for this purpose shall not levy or collect ad valorem property taxes.

Section 2. KRS 100.201 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally

adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact interim zoning or other kinds of growth management regulations which shall have force and effect within their respective jurisdictions for a period not to exceed twelve (12) months, during which time the planning commission shall complete the remaining elements of the comprehensive plan as prescribed by KRS 100.187. Interim regulations shall become void upon the enactment of permanent regulations as provided in subsection (2) of this section, or after twelve (12) consecutive months from the date such interim regulations are enacted, whichever occurs first.

(2) When all required elements of the comprehensive plan have been adopted in accordance with the provisions of this chapter, then the legislative bodies and fiscal courts within the planning unit may enact permanent land use regulations, including zoning and other kinds of growth management regulations to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, land use and zoning regulations may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood or other dangers. Land use and zoning regulations may also be employed to protect airports, highways, and other transportation facilities, public facilities, schools, public grounds, historical districts, central business districts, prime agricultural land and other natural resources, ***to regulate the use of sludge from water and waste water treatment facilities in projects to improve soil quality,*** and ***to protect*** other specific areas of the planning unit which need special protection by the planning unit.

The Committee Amendment No. 1 to **HB 828** is as follows:

Amend printed copy of **HB 828** on page 3, line 17, after "***facilities***" by inserting "***as it pertains to landfarming***"

The Committee on Energy reported **SB 230** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SB 230**, AN ACT relating to civil penalties for certain pipeline violations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 278.992 is amended to read as follows:

***(1)*** Any person who violates any regulation adopted and filed pursuant to KRS Chapter 13A by the Public Service Commission governing the safety of pipeline facilities [~~and/~~]or the transportation of gas as those terms are defined in the Natural Gas Pipeline Safety Act of 1968, U. S. Congress, shall be subject to a civil penalty to be assessed by the Public Service Commission not to exceed ***ten*** [~~one~~] thousand dollars ***($10,000)*** [~~($1,000)~~] for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed ***five*** [~~two~~] hundred thousand dollars ***($500,000)*** [~~($200,000)~~] for any related series of violations. Any civil penalty assessed for such a violation may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the Commonwealth of Kentucky to the person charged or may be recovered in a civil action in the Franklin Circuit Court.

***(2) Any person who willfully and knowingly defaces, damages, removes or destroys any pipeline sign or right-of-way marker required by the Natural Gas Pipeline Safety Act or any regulation or order issued pursuant to it shall, upon conviction, be subject for each offense to a fine of not more than five thousand dollars ($5,000), imprisonment for a term not to exceed one (1) year, or both.***

The Committee on Health and Welfare reported **HB 663**, **HB 888** with Committee Amendment attached thereto, **HB 403** with Committee Substitute, **HB 726**, **HB 781**, **HJR 124**, **HCR 159** and **HJR 173** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 663**, AN ACT relating to the education of foster children.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

***(1) Within sixty (60) days of the commitment date of a child due to abuse, neglect or dependency,***

***the Cabinet for Human Resources shall provide the court with jurisdiction an assessment of the child to determine:***

***(a) The child's current and historical educational functioning;***

***(b) The child's emotional and behavioral functioning; and***

***(c) The extent to which the child's life experiences and circumstances of commitment have created a handicapping condition requiring special educational programming or other services to provide the child an appropriate public education.***

***(2) Upon discerning of an emotional, behavioral, or other handicapping condition with negative impact upon a child's educational experience, the Cabinet for Human Resources as guardian of the child shall ensure that whatever services necessary are obtained to allow the child the benefit of a free, appropriate public education.***

***(3) Services required to allow the child a free, appropriate public education shall be limited to those required under Section 504 of Public Law 93-112, Public Law 94-142, or other federal statutes affecting children with emotional or behavioral handicaps.***

***(4) The Cabinet for Human Resources shall include activities undertaken to ensure a child committed to the Cabinet for Human Resources receives adequate public education in the six (6) month case progress report required by KRS 620.240.***

***(5) Any child removed from his home due to abuse, neglect or dependency and placed in the least restrictive appropriate placement available shall, for the purposes of acquiring an appropriate public education, be considered a resident of the school district where the placement occurs.***

HB 888, AN ACT relating to services to children with emotional problems.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) Prior to placing any child committed to the Cabinet for Human Resources in an inpatient hospital for mental problems the cabinet shall:***

***(a) Arrange for an examination and written evaluation of the child by a qualified mental health professional as defined under KRS Chapter 202A and who has no direct or indirect contractual fiscal benefit from the child's hospitalization; and***

***(b) Furnish to the qualified mental health professional a report of all community-based services that have been furnished to the child and the results of such services.***

***(2) In order to hospitalize the child, the written evaluation shall show that:***

***(a) Proper treatment of the child's psychiatric condition requires services on an inpatient basis under the direction of a physician;***

***(b) The services can reasonably be expected to improve the child's condition or prevent further regression so that inpatient services will no longer be needed; and***

***(c) Expenditures of the same amount or less of dollars in outpatient care could not furnish the required level of services.***

***(3) Within ten (10) days of hospitalization of the child for mental problems, the cabinet shall, as legal guardian of the child, develop a treatment plan for the child, in conjunction with the hospital staff, which includes:***

***(a) The method of treatment;***

***(b) Objective, measurable goals of treatment; and***

***(c) The time frame in which treatment shall be accomplished.***

***(4) Every ten (10) days after the establishment of a child's plan of treatment, the cabinet shall:***

***(a) Conduct an onsite evaluation to ascertain the child's progress;***

***(b) Review the treatment plan for the child to ensure its appropriateness to the child's needs; and***

***(c) Interview the child.***

***(5) Emergency placement of a child under this section may be allowed if an evaluation of the child is made by an independent, qualified mental health professional within five (5) working days of placement. The result of the evaluation shall be reported to the Cabinet for Human Resources upon completion, with a written summary, delivered to the Cabinet for Human Resources within ten (10) days of completion.***

***(6) Placement of a child in a mental hospital for purposes of evaluation is prohibited.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) Before placing a child committed to the Cabinet for Human Resources in a facility outside of the Commonwealth for treatment of a mental or behavioral problem, the cabinet shall:***

***(a) Conduct an assessment of the child to determine the child's treatment needs;***

***(b) Estimate the cost of meeting those needs; and***

***(c) Circulate a contract outlining the child's needs and estimated cost to all treatment facilities within the Commonwealth.***

***(2) The cabinet shall place the child with any licensed treatment oriented child care facility within the state that agrees to meet the child's needs for the estimated costs or less. If no facility within the Commonwealth is able or willing to meet the treatment needs of the child, the child may be placed in an out-of-state facility provided the cost of such placement does not exceed the cabinet's estimate.***

The Committee Amendment No. 1 to **HB 888** is as follows:

Amend printed copy of **HB 888** on page 2, line 9, by deleting the word "***guardian***" and inserting in lieu thereof the word "***custodian***";

And on page 2, line 9, by deleting the word "***develop***" and inserting in lieu thereof the words "***participate in the development of***";

And on page 3, line 6, by inserting after the word "***prohibited***" the following words "***unless the child is a danger to self or others and in need of inpatient care***".

**HB 403**, AN ACT relating to children committed to the Cabinet for Human Resources.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 605.100 is amended to read as follows:

(1) The cabinet shall arrange for a program of care, treatment and rehabilitation of the children committed to it, which program shall be designed to provide for classification, segregation and specialized treatment of children according to their respective problems, needs and characteristics, and to provide a coordinated system of probation and parole services.

(2) ***If a child committed to the cabinet is absent without authorization from a residential treatment facility in which the child is placed, the cabinet or its designated representative may search for the child and, if found, return the child to the facility.***

***(3)*** The cabinet shall be responsible for the operation, management and development of the existing state facilities for the custodial care and rehabilitation of children committed to the cabinet under provisions of this chapter. The cabinet shall further be responsible for the development of ***the*** [~~such~~] facilities [~~as are~~] necessary to provide an adequate and modern program for the care, treatment and rehabilitation of ***the*** [~~such~~] children.

***(4)***[~~(3)~~] The facilities and programs under the control of the cabinet shall be designed and operated [~~in such a manner as~~] to rehabilitate, train, develop and educate the children to become good citizens and useful members of society.

***(5)***[~~(4)~~] Suitable programs of vocational education and training shall be carried on in the facilities and programs, with the view of preparing the children for future self-support.

***(6)***[~~(5)~~] The children in each facility and program shall be employed so far as practicable in labor incident to the maintenance and operation of the facility and program, and in suitable industries conducted by the facilities and programs as a part of the vocational training program.

*(7)*[~~(6)~~] The superintendent or managing officer of each facility may use, for the maintenance of the facility, the products of farms, dairies, and other departments and industries of the facility, or may sell or exchange ***the*** [~~such~~] products for the benefit of the facility.

The Committee Substitute to **HB 403** is as follows:

**HB 403,** AN ACT relating to children committed to the Cabinet for Human Resources.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

***(1) The following definitions shall apply to this section:***

***(a) "Cabinet program site" means a group home, residential treatment facility, day treatment facility, or any other place operated by the cabinet for care or treatment of juveniles.***

***(b) "Area of an approved community visit" means a place the cabinet permits a juvenile to attend, not on the grounds of a cabinet program site, including, but not limited to, medical or dental offices, hospitals, schools, places of employment or entertainment.***

***(2) The secretary or the secretary's designee may name employees of the cabinet to locate and return any juvenile committed to the cabinet who has left a cabinet program site without authorization from the person in charge of the program; or who has left the area of an approved community visit without authorization of the person in charge of the community visit.***

***(3) No employee of the cabinet shall be designated under subsection (2) of this section unless the employee has been trained in the appropriate policies and procedures established by the cabinet for the return of committed juveniles.***

***(4) The employees designated under subsection (2) of this section shall have the following authority:***

***(a) To pursue the juveniles on any public way or in any public place;***

***(b) To look for the juvenile in any public place;***

***(c) To go to the residence of the juvenile's parent, guardian, or legal custodian, but not to enter the premises unless specifically authorized by the juvenile's parent, guardian, or legal custodian;***

***(d) To take the juvenile into physical custody, using only restraint techniques approved by the cabinet;***

***(e) To return the juvenile to the program site to which assigned.***

***(5) In carrying out the function of locating and returning a juvenile under subsection (2) of this section, no designated employee of the cabinet shall:***

***(a) Go onto or enter private property without the express permission of the owner or legal occupier, except for the sole purpose of obtaining such permission;***

***(b) Carry or use a firearm, knife, or other weapon or dangerous instrumentality;***

***(c) Use any unnecessary force or restraint on the juvenile;***

***(d) Cause unnecessary annoyance or alarm or make unreasonable noise;***

***(e) Engage in any activity that creates a hazardous or physically offensive condition;***

***(f) Violate any law or ordinance.***

Section 2. The following KRS section is repealed:

440.060 Capture and return of fugitive from house of reform.

**HB 726,** AN ACT relating to state boards and committees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 205.540 is amended to read as follows:

(1) An Advisory Council for Medical Assistance shall be established in the state government. The council shall consist of ***eighteen (18)*** [~~seventeen (17)~~] members. The secretary for human resources shall be an ex

officio member. The other ***seventeen (17)*** [~~sixteen (16)~~] members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first ~~vacancy~~ occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until his successor is appointed and qualified. ***Ten (10)*** [~~Nine (9)~~] of the appointments shall be made one (1) from each list of three (3) nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmacists Association; the Kentucky Association of Health Care Facilities; the Kentucky Nurses' Association; the State Board of Podiatry; the Kentucky Home Health Association; [~~and~~] the Kentucky Optometric Association***; and the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc.*** The other seven (7) appointive members shall be health care advocates knowledgeable about health care and the health care industry, and shall include three (3) medical assistance recipients, one (1) representative of a recognized consumer advocacy group representing the elderly; and three (3) representatives of recognized consumer advocacy groups whose membership includes low income persons, children and youth, women, minorities and disabled persons.

(2) Each appointive member of the council shall serve without compensation but each council member not otherwise compensated for his time or expenses shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

(5) No consumer member of the council shall have a fiduciary relationship or interest in any health care facility or service.

Section 2. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A Technical Advisory Committee on Physician Services consisting of five (5) physicians appointed by the council of the Kentucky State Medical Association;

(b) A Technical Advisory Committee on Hospital Care consisting of five (5) hospital administrators appointed by the board of trustees of the Kentucky Hospital Association;

(c) A Technical Advisory Committee on Dental Care consisting of five (5) dentists appointed by the Kentucky Dental Association;

(d) A Technical Advisory Committee on Nursing Service consisting of five (5) nurses appointed by the board of directors of the Kentucky State Association of Registered Nurses;

(e) A Technical Advisory Committee on Drugs consisting of five (5) pharmacists appointed by the Kentucky Pharmacists Association;

(f) A Technical Advisory Committee on Nursing Home Care consisting of ***six (6)*** [~~five (5)~~] members ***of which five (5) members shall be*** appointed by the Kentucky Association of Health Care Facilities***, and one (1) member shall be appointed by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc.***;

(g) A Technical Advisory Committee on Optometric Care consisting of five (5) members appointed by the Kentucky Optometric Association;

(h) A Technical Advisory Committee on Podiatric Care consisting of five (5) podiatrists appointed by the Kentucky Podiatry Association;

(i) A Technical Advisory Committee on Primary Care consisting of five (5) primary care providers, two (2) of whom shall represent licensed health maintenance organizations, appointed by the Governor, until such time as an association of primary care providers is established, whereafter the association shall appoint the members;

(j) A Technical Advisory Committee on Home Health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association;

(k) A Technical Advisory Committee on Consumer Rights and Client Needs consisting of five (5) members, with one (1) member to be appointed by each of the following organizations: the Kentucky Combined Committee on Aging, the Kentucky Legal Services Corporation, the Kentucky Association for Retarded Citizens, the Department of Public Advocacy, and the National Association of Social Workers-Kentucky Chapter.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

Section 3. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the Finance and Administration Cabinet for administrative and budgetary purposes. The board shall be composed of ***ten (10)*** [~~nine (9)~~] members. The secretary of the Cabinet for Human Resources shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. ***One (1) member shall be a practicing nursing home administrator appointed from a list of two (2) names submitted by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc.*** The other four (4) members shall be practicing nursing home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky [~~Nursing Home~~] Association ***of Health Care Facilities*** and duly licensed under this chapter, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter.

Section 4. KRS 314.121 is amended to read as follows:

(1) The Governor shall appoint a Board of Nursing consisting of ***thirteen (13)*** [~~twelve (12)~~] members. ***Eight (8)*** [~~Seven (7)~~] members shall be registered nurses licensed to practice in the Commonwealth. Three (3) shall be practical nurses licensed to practice in the Commonwealth. One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth. One (1) member shall be a citizen at large, who is not associated with or financially interested in the practice or business regulated. Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. Each year two (2) registered nurse terms and one (1) licensed practical nurse term shall expire on June 30, except that every fourth year one (1) registered nurse term and one (1) consumer term shall expire on June 30. By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1. By March 1, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1. By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Society for Hospital Nursing Service Administrators, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1. By March 1, 1989, the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1, 1989. This appointment may be made at any time after July 15, 1988 but not later than the date specified herein. ***By March 1, 1991, the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc., shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1, 1991.***

(2) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.

(3) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(4) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. ***Five (5)*** [~~Four (4)~~] members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; and one (1) shall be in nursing administration.

(5) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, and have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment.

(6) The Governor shall appoint an advisory council to the board consisting of ***eight (8)*** [~~seven (7)~~] members to be selected one (1) each from lists submitted by Kentucky Medical Association, Kentucky Hospital Association, Kentucky Association of Health Care Facilities, ***Kentucky Association of Nonprofit Homes and Services for the Aging, Inc.,*** Kentucky Nurses Association, Kentucky State Association of Licensed Practical Nurses, Kentucky Dental Association and Kentucky Pharmacists Association. The council shall function in an advisory capacity only as a constructive force in establishing and maintaining standards of nurse competency and licensure regulations in the interest of public protection, and, in this connection shall be provided with copies of any proposed regulations of the board at least thirty (30) days prior to their filing with the Legislative Research Commission. The terms shall be for four (4) years. Two (2) shall be appointed each year except every fourth year when only one (1) shall be appointed.

**HB 781,** AN ACT relating to utilization review.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***(1) "Cabinet" means the Cabinet for Human Resources;***

***(2) "Private review agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any person providing or administering health benefits to citizens of this Commonwealth;***

***(3) "Registration" means an authorization issued by the cabinet to a private review agent to conduct utilization review;***

***(4) "Secretary" means the secretary of the Cabinet for Human Resources or his designee;***

***(5) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and services given or proposed to be given to a patient or group of patients for purposes of determining the availability of payment; and***

***(6) "Utilization review plan" means a description of the standards governing utilization review activities performed by a private review agent.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***(1) Effective January 1, 1991, no private review agent who approves or denies payment or who recommends approval or denial of payment for hospital or medical services or whose review results in the approval or denial or hospital or medical services on a case by case basis shall conduct utilization review in this state unless the private review agent has been issued a registration by the cabinet.***

***(2) No registration shall be required for private review agents conducting general in-house utilization review for hospitals, home health agencies, preferred provider organizations or other managed care entities, clinics, private offices or any other health facility so long as the review does not result in the approval or denial of payment for hospital or medical services for a particular case.***

***(3) No registration shall be required for a private review agent that operates solely under contract with the federal government for utilization review of patients eligible for hospital services under Title XVIII of the Social Security Act.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

*(1) A private review agent shall:*

*(a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported and supervised by physicians to carry out its utilization review activities;*

*(b) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and sub-specialty cases;*

*(c) Provide only a physician trained in the relevant specialty or sub-specialty to make a final determination that care rendered or to be rendered was, is, or may be medically inappropriate;*

*(d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except that private review agents may, if otherwise permitted by law, provide patient information to a third party on whose behalf the private review agent is performing utilization review;*

*(e) Be reasonably accessible to patients and providers for five (5) working days a week during normal business hours in this state;*

*(f) Provide responses to patients, hospitals, and physicians on reconsiderations or appeals of adverse determinations of the private review agent within thirty (30) days of the request for reconsideration or filing of an appeal;*

*(g) Provide a decision on a request for utilization review within twenty-four (24) hours of a request for preadmission review of a hospital admission, unless additional information is needed, or provide a decision to approve or deny a patient's continued hospital stay within twenty-four (24) hours of the review and prior to the time upon which a previous authorization for hospital care will expire;*

*(h) Comply with its own policies, procedures, and review criteria on file with the cabinet;*

*(i) At least thirty (30) days prior to its distribution to any third party or the public, provide a copy of any quality data report to a health facility or licensed health care practitioner which is included in such report and provide an opportunity for the facility or practitioner to provide a response to the report;*

*(j) Comply with all provisions of this Act and regulations.*

*(2) A private review agent shall submit a copy of any changes to review criteria, standards, or procedures to the cabinet. No change to review criteria, standards, and procedures shall be effective until sixty (60) days after it has been filed with the cabinet.*

*(3) A private review agent shall notify the cabinet of any additions or deletions to the listing of third party payors and employers for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of the change.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

*(1) Within ninety (90) days of the effective date of this Act, the cabinet shall adopt regulations to implement the provisions of this chapter including, but not limited to:*

*(a) The establishment of fees for applications and renewals in an amount sufficient to pay for the administrative costs of the program and any other costs associated with carrying out the provisions of this Act.*

*(b) Specification of information required of applicants for registrations and renewals, which shall include, at a minimum:*

*1. A utilization review plan that includes:*

*a. Specific review criteria, review standards and procedures to be used in evaluating proposed or delivered hospital care;*

*b. Those instances, if any, under which utilization review may be delegated to a hospital utilization review program;*

*c. The procedures by which patients, physicians, or hospitals may seek timely reconsideration or appeal of adverse decisions by the private review agent;*

*d. The manner in which the private review agent shall notify the patient, hospital, and physician when payment for hospital or medical care is denied including the reasons for the denial;*

*2. The type and qualifications of the personnel either employed or under contract to perform utilization review;*

*3. Assurances that a toll free line will be provided for patients, hospitals, and physicians to contact the private review agent and policies and procedures to insure that a representative of the private review agent shall be reasonably accessible to patients and providers at least five (5) days per week during normal business hours in this state;*

*4. The policies and procedures to insure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;*

*5. A copy of the materials designed to inform applicable patients and providers of the requirements of the utilization review plan;*

*6. A list of the third party payors and employers for which the private review agent is performing utilization review in this state; and*

*7. Evidence of compliance or ability to comply with the requirements of this Act and the regulations;*

*(c) A process for the review of applications for registrations and renewals, including application procedures, procedures for supplementing the application on the request of the secretary, reasonable timetables for review and decision, and notice procedures;*

*(d) A process for the revocation of registration, which shall include notice provisions, and reasonable timetables for decision on a revocation;*

*(e) A hearing process for the appeal of a denial of a registration or renewal or of a revocation of a registration, which shall include, at a minimum:*

*1. Written notice to the affected private review agent;*

*2. A provision that the affected private review agent may request a hearing within seven (7) days;*

*3. A provision that the hearing shall be scheduled no later than thirty (30) days after the hearing request;*

*4. A provision that the hearing will be conducted by a hearing officer appointed by the secretary; and*

*5. Timetables for the issuance of written findings, conclusions, and recommendations by the hearing officer and for the issuance of a decision by the secretary;*

*(f) A process for reviewing any written complaints that a private review agent has failed to perform review in accordance with the utilization review plan submitted pursuant to this Act or to comply with any requirements of this Act or regulations promulgated thereunder which shall require the secretary to:*

*1. Within ten (10) days of the receipt, send a copy of the complaint to the private review agent and require that any written reply be sent to the secretary within ten (10) days;*

*2. Upon review of a complaint, make a recommendation to the insurer or private review agent and the insured; and*

*3. Consider complaints before issuing or renewing any registration to a private review agent; and*

*(g) The establishment of a method of arbitration to resolve disputes between private review agents and health care providers and patients.*

*(2) The cabinet may establish reporting requirements to:*

*(a) Evaluate the effectiveness of private review agents; and*

*(b) Determine if the utilization review programs are in compliance with the provisions of this Act and applicable regulations.*

*(3) On request of any health facility, physician, or patient whose care is subject to review, the cabinet shall provide copies of review criteria, standards, or procedures of any private review agent which has been issued a registration to conduct review in this state.*

*(4) The cabinet shall, on a bimonthly basis, compile a list of registered private review agents along with the renewal dates of their registrations and the date upon which any private review agents submitted changes to their review criteria, standards, or procedures. This information shall be made available upon request.*

*(5) The Cabinet for Human Resources shall report to the General Assembly by July 1, 1991, and each year thereafter on the number of private review agents conducting utilization review, the type of criteria used to perform utilization review, and the feasibility of adopting uniform standards for one (1) or more aspects of utilization review including standardized forms for data collection and the medical procedures for which preauthorization and second surgical opinion would be required.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

*(1) A private review agent applying for registration or renewal of registration shall:*

*(a) File an application on a form prescribed by the cabinet; and*

*(b) Pay the application fee established by administrative regulation.*

*(2) In order to obtain a registration or renewal, a private review agent shall establish by credible evidence that it has complied with the requirements of this Act and the regulations.*

*(3) The registration issued pursuant to this Act expires on the second anniversary of the effective date unless it is renewed.*

*(4) The registration issued under this Act is not transferable.*

*(5) The secretary may revoke the registration of any private review agent who does not comply with the requirements of this Act or the regulations.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

*The cabinet may institute injunctive proceedings in the Franklin Circuit Court or other circuit court of competent jurisdiction to enjoin the operation of any private review agent which is not properly registered pursuant to this Act.*

SECTION 7. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*(1) Every health insurer proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits shall:*

*(a) Be a registered private review agent in accordance with Section 2 of this Act; or*

*(b) Contract with a private review agent that has been registered in accordance with Section 2 of this Act.*

*(2) Notwithstanding any other provision of this Act, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner or health facility for covered services which have been rendered to an insured unless:*

*(a) Notice of denial has been given to the health care provider and the insured prior to the rendering of the services in question; and*

*(b) The insurer is in compliance with subsection (1) of this section.*

SECTION 8. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*(1) Every health insurer proposing to issue or deliver in this state a group or blanket health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits shall:*

*(a) Be a registered private review agent in accordance with Section 2 of this Act; or*

*(b) Contract with a private review agent that has been registered in accordance with Section 2 of this Act.*

*(2) Notwithstanding any other provision of this Act, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner or health facility for covered services which have been rendered to an insured unless:*

*(a) Notice of denial has been given to the health care provider and the insured prior to the rendering of the services in question; and*

*(b) The insurer is in compliance with subsection (1) of this section.*

SECTION 9. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*(1) Every non-profit hospital, medical-surgical, dental and health service corporation proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits shall:*

*(a) Be a registered private review agent in accordance with Section 2 of this Act; or*

*(b) Contract with a private review agent that has been registered in accordance with Section 2 of this Act.*

*(2) Notwithstanding any other provision of this Act, a non-profit hospital, medical-surgical, dental and health service corporation shall not deny or reduce payment of health benefits to any person, licensed practitioner or health facility for covered services which have been rendered to an insured unless:*

*(a) Notice of denial has been given to the health care provider and the insured prior to the rendering of the services in question; and*

*(b) The non-profit hospital, medical-surgical, dental and health service corporation is in compliance with subsection (1) of this section.*

SECTION 10. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*(1) Every employer in this state which provides coverage of hospital benefits on a self-insured basis and requires the utilization review of such benefits shall:*

*(a) Be a registered private review agent in accordance with Section 2 of this Act; or*

*(b) Contract with a private review agent that has been registered in accordance with Section 2 of this Act.*

*(2) Notwithstanding any other provision of this Act, a self-insured employer shall not deny or reduce payment of health benefits to any person, licensed practitioner or health facility for covered services which have been rendered to an insured unless:*

*(a) Notice of denial has been given to the health care provider and the insured prior to the rendering of the services in question; and*

*(b) The self-insured employer is in compliance with subsection (1) of this section.*

SECTION 11. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*(1) Every health maintenance organization in this state which provides coverage of hospital benefits and requires the utilization review of such benefits or administers a health benefit program which provides for the coverage of hospital benefits and requires the utilization review of such benefits shall:*

*(a) Be a registered private review agent in accordance with Section 2 of this Act; or*

*(b) Contract with a private review agent that has been registered in accordance with Section 2 of this Act.*

*(2) Notwithstanding any other provision of this Act, a health maintenance organization shall not deny or reduce payment of health benefits to any person, licensed practitioner or health facility for covered services which have been rendered to an insured unless:*

*(a) Notice of denial has been given to the health care provider and the insured prior to the rendering of the services in question; and*

*(b) The health maintenance organization is in compliance with subsection (1) of this section.*

Section 12. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental and health service corporations are subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 7 — Investments;

(4) Subtitle 8 — Administration of Deposits;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 25 — Continuity of Management;

(7) Subtitle 33 — Rehabilitation and Liquidation;

(8) Subtitle 18 — KRS 304.18-110, 304.18-120 — Group Conversion ***and Section 8 of this Act***;

(9) Subtitle 4 — Fees and Taxes;

(10) Subtitle 99 — Penalties; and

(11) Subtitle 14 — KRS 304.14-500 to 304.14-550.

Section 13. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), and each day's continuance of the nuisance, source of filth or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100). Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or confined in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both. Each subsequent violation of any provision of KRS 211.182 shall constitute a felony and be punishable by a fine of not less than three thousand dollars ($3,000) nor more than ten thousand dollars ($10,000) or by imprisonment in the penitentiary for not less than one (1) nor more than three (3) years, or both.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Human Resources to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or confined for not less than thirty (30) days nor more than twelve (12) months, or both. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Human Resources adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

***(6) A private review agent which performs utilization review without proper registration pursuant to this Act shall be subject to a fine of ten thousand dollars ($10,000) for each violation.***

***(7) Any properly registered private review agent which willfully violates any provision of this Act or of the regulations shall be subject to a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.***

***(8) The penalties provided in subsections (6) and (7) of this Act are cumulative and are in addition to any other penalties, claims, damages or remedies available at law or in equity.***

**HJR 124**, A JOINT RESOLUTION directing the Cabinet for Human Resources in conjunction with the Department of Education to develop a policy to promote appropriate and early diagnosis and treatment of scoliosis.

WHEREAS, scoliosis is a significant health problem in the Commonwealth of Kentucky; and

WHEREAS, early diagnosis and treatment by a licensed health care provider can reduce problems in later life;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Cabinet for Human Resources, in conjunction with the Department of Education, is hereby directed to develop a policy to promote appropriate and early diagnosis and treatment of scoliosis by licensed members of the healing arts.

Section 2. That the Cabinet for Human Resources and the Department of Education shall report to the Legislative Research Commission no later than October, 1991, on the policy developed to promote appropriate and early diagnosis and treatment of scoliosis by licensed members of the healing arts and recommendations for the implementation of the policy.

**HCR 159**, A CONCURRENT RESOLUTION to create a Task Force to study the impact of alcohol and drug use during pregnancy.

WHEREAS, the use of alcohol and other drugs during pregnancy can have devastating effects on a fetus or infant with increased incidences of spontaneous abortions, sudden infant death syndrome, exposure to the AIDS virus, and physical abnormalities; and

WHEREAS, fetal alcohol syndrome is the leading preventable cause of birth defects, including mental retardation; and

WHEREAS, children who have been exposed to alcohol and other drugs during pregnancy can manifest serious learning deficits and behavioral disturbances thereby causing a need for optimal educational interventions for the new generation of drug affected children; and

WHEREAS, prenatal care can be a significant means of preventing alcohol and drug use during pregnancy through education, as well as an opportunity for intervention through chemical dependency treatment; and

WHEREAS, a child born to a drug addicted mother is four times more likely to become chemically dependent as an adult due to biological, as well as learned characteristics from the family; and

WHEREAS, alcohol and drug use during pregnancy occurs throughout all socioeconomic classes in our society; and

WHEREAS, many health and human service professionals are not fully aware of the possible consequences of alcohol and other drug use during pregnancy; and

WHEREAS, the cost to Kentucky due to alcohol or other drug abuse during pregnancy manifests itself through increased medical care costs, increased social service cost due to foster care placements, and later in life through Kentucky's criminal justice system in which 70% of Kentucky's correctional population admits a history of drug and alcohol problems;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Legislative Research Commission is directed to appoint a Drug Abuse and Pregnancy Task Force on Alcohol and Drug Use During Pregnancy to study for the Commonwealth:

(1) The extent of alcohol and other drug abuse among Kentucky women who are pregnant;

(2) The current resources available within the health care system, substance abuse prevention and treatment programs, social services and education system to address this problem and;

(3) The resources needed to increase access to prenatal health care services for alcohol and drug dependent women, promote prevention activities among women of child bearing age in the Commonwealth, increase early intervention and treatment programs for alcohol and drug dependent pregnant women to reduce the use of such substances in future pregnancies, and address the special education and social service needs of children exposed to alcohol and drugs during pregnancy.

Section 2. That the Task Force shall consist of seventeen (17) members as follows: Two (2) members of the General Assembly, one (1) of whom shall serve as the chairperson of the Task Force; one (1) member each to represent: the University of Louisville's School of Medicine, Department of Pediatrics; the University of Kentucky Medical Center, Department of Psychiatry; the University of Kentucky, Department of Philosophy; the Cabinet for Human Resources, Department for Health Services, Division of Maternal and Child Health; the Cabinet for Human Resources' Department for Social Services; the Department of Education's Division for Exceptional Children; the Kentucky State Police's Drug Enforcement, Special Investigations Unit; consumers, who shall be a person who has experienced drug dependency while pregnant; the Women's Center of Central Kentucky; the University of Kentucky's School of Nursing; and the Louisville and Jefferson County

Health Department; and two (2) members each to represent the Bluegrass East Comprehensive Care Center, and the Cabinet for Human Resources, Department for Health Services, Division of Substance Abuse.

Section 3. That the purpose of the Task Force shall be to study and make recommendations for the 1992 Kentucky General Assembly regarding a plan of action and any needed legislation to help prevent the use of alcohol and other drugs during pregnancy as well as strategies to address the consequences of this problem as experienced by the health, social services and educational systems of the Commonwealth.

Section 4. The findings and recommendations of the Task Force shall be submitted to the Legislative Research Commission by September 1, 1991.

Section 5. The Legislative Research Commission shall provide administrative support services to the Task Force.

Section 6. Staff services in support of the Task Force are estimated to be $25,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

**HJR 173,** A JOINT RESOLUTION directing a study of alternative methods of confinement for drug offenders.

WHEREAS, the number of persons convicted and requiring incarceration have increased dramatically over the last four years;

WHEREAS, the number of persons incarcerated for drug related offenses has increased by 137% over the last four years and represents approximately 9% of the total correctional population; and

WHEREAS, it is projected that the drug related convictions and prison population will grow; and

WHEREAS, there is a need for alternative methods to address the problems associated with chemical dependency of those individuals convicted of drug use;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the secretary of the Corrections Cabinet prepare a study of alternative methods of confinement for drug offenders and submit it to the Legislative Research Commission no later than July 1, 1991. The study shall include:

(1) A review of actions taken by other states related to the incarceration and parole of drug related felons;

(2) Recommendations of the cabinet on actions that might be taken on alternatives to incarceration for drug related offenders. The recommendations shall include the fiscal note and impact on prison population; and

(3) A draft of any proposed statutory changes and any actions which could be affected during the interim.

The Committee on Health and Welfare reported **HB 838** with Committee Amendment attached thereto, and **HB 887** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 838,** AN ACT relating to planning for and providing services to emotionally disturbed children.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

***The Kentucky General Assembly finds that services to children are provided by various departments and agencies at both the state and local level, often without appropriate policy collaboration and service coordination. The General Assembly declares that the purpose of this Act is to establish a structure for coordinated policy development, comprehensive planning, and collaborative budgeting for services to children with emotional disturbance and their families. It is further the intention of the General Assembly to build on the existing resources and to design and implement a coordinated service system for children with emotional disturbance or severe emotional disturbance that is community based and centered on the needs of the individual child and family.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*As used in this Act, unless the context otherwise requires:*

*(1) "Emotionally disturbed child" means a child with a clinically significant disorder of thought, mood, perception, orientation, memory or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and seriously limits a child's capacity to function in the home, school or community.*

*(2) "Severely emotionally disturbed child" means a child with a clinically significant disorder of thought, mood, perception, orientation, memory or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and that:*

*(a) Presents substantial limitations that have persisted for at least one (1) year or are judged by a mental health professional to be at high risk of continuing for one (1) year without professional intervention in at least two (2) of the following five (5) areas: "Self-care," defined as the ability to provide, sustain and protect his or herself at a level appropriate to his or her age; "Interpersonal relationships," defined as the ability to build and maintain satisfactory relationships with peers and adults; "Family life," defined as the capacity to live in a family or family type environment; "Self-direction," defined as the child's ability to control his or her behavior and to make decisions in a manner appropriate to his or her age; and "Education," defined as the ability to learn social and intellectual skills from teachers in available educational settings; or*

*(b) Is a Kentucky resident and is receiving residential treatment for emotional disturbance through the interstate compact; or*

*(c) The Department for Social Services has removed the child from the child's home and has been unable to maintain the child in a stable setting due to behavioral or emotional disturbance; or*

*(d) Is a person under twenty-one (21) years of age meeting the criteria of paragraph (a) of this subsection and who was receiving services prior to age eighteen (18) that must be continued for therapeutic benefit.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created a State Interagency Council for Services to Emotionally Disturbed Children. This council shall be composed of the following members who shall serve by virtue of their positions: the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, the Superintendent of Public Instruction, and the executive director of the Administrative Offices of the Courts or their designees. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.*

*(2) The State Interagency Council for Services to Emotionally Disturbed Children shall:*

*(a) Consider issues and make recommendations regarding the provision of services for emotionally disturbed children;*

*(b) Advise each regional interagency council for services to emotionally disturbed children on the effective coordination of services to those children;*

*(c) Develop a form to be signed by the parent or other legal guardian of a child referred to any intragency council for emotionally disturbed children. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.*

*(d) Review service and treatment plans for children for which such reviews are requested, and provide such advice and assistance as the state council determines to be necessary to meet the needs of emotionally disturbed children referred by regional councils;*

*(e) Assess the effectiveness of regional councils in meeting the service needs of emotionally disturbed children;*

*(f) Advise the Governor and the Legislative Research Commission at least annually, regarding the Commonwealth's service delivery to emotionally disturbed children;*

*(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;*

*(h) Adopt interagency agreements as necessary for coordinating services to emotionally disturbed children by the agencies represented in the state council; and*

*(i) Develop service programs to meet the needs of emotionally disturbed children.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*The secretary for human resources, the Superintendent of Public Instruction, and the executive director of the Administrative Offices of the Courts shall ensure that the State Council for Services to Emotionally Disturbed Children is formed by August 1, 1990. No member of the State Interagency Council shall receive compensation other than that received as a state employee.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created regional interagency councils for services to emotionally disturbed children. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to emotionally disturbed children shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members: the children's services coordinator from each regional community mental health center or their designee in the case of a multi-council district; one (1) court designated worker chosen by the District Court Judges within the district; one (1) specialist in special education chosen by the school district superintendents in the area served by the regional council. In addition, a regional interagency council for services to emotionally disturbed children may invite any other local public or private agency that provides services to emotionally disturbed children to have a representative become a permanent or temporary member of the council.*

*(2) No member of a regional interagency council for services to emotionally disturbed children shall be given compensation in addition to that which they already receive as service providers or state employees.*

*(3) Each regional interagency council for services to emotionally disturbed children shall perform the following functions:*

*(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;*

*(b) Initiate and adopt interagency agreements as necessary for providing services to emotionally disturbed children by the agencies represented in the regional council;*

*(c) Advise the State Interagency Council regarding service delivery to emotionally disturbed children within the region;*

*(d) Refer those children for whom the regional councils cannot provide adequate services to the State Interagency Council;*

*(e) Make periodic reports to the State Interagency Council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child;*

*(f) Recognize local interagency councils for services to emotionally disturbed children when it determines such a group would be beneficial to service delivery.*

*(4) The secretary for human resources and the Superintendent of Public Education shall ensure that regional councils for services to emotionally disturbed children are formed by October 1, 1990.*

*(5) Local interagency councils for services to emotionally disturbed children may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fund raising activities for emotionally disturbed children within a city, county, or other local community.*

The Committee Amendment No. 1 to **HB 838** is as follows:

Amend printed copy of **HB 838** on page 3, line 20, by inserting after the words "*composed of*" the words "*a designee of the state Department of Education and of*";

And on page 3, line 26, by deleting the words "*the Superintendent of*";

And on page 4, line 1, by deleting the words "*Public Instruction.*";

And on page 5, lines 15 and 16, by deleting the words "*Superintendent of Public Instruction*" and inserting in lieu thereof "*the designee of the state Department of Education*";

And on page 7, line 26, by deleting the words "*Superintendent of Public Education*" and inserting in lieu thereof "*designee of the state Department of Education*".

**HB 887**, AN ACT relating to family preservation services for children at risk of out-of-home placement.

WHEREAS, the family is the basic social unit in which our children's sense of well being and self-esteem are nurtured and developed and those feelings and values essential to a healthy, productive adult life are best developed in a healthy, functional family; and

WHEREAS, the most intensive level of child protective services currently available from the state Department for Social Services allows an average of only 3 hours of services per week to a child and the family to prevent out-of-home placement; and

WHEREAS, over 2,900 children were placed in foster care in Kentucky in 1989 and over 1,400 children were placed in psychiatric hospitals and paid for with public moneys; and

WHEREAS, out-of-home placement is an expensive use of state resources since the average length of stay in foster care in Kentucky is 27 months at an average cost per child of $8,900 and the average length of stay in a public-paid psychiatric placement is 62 days at an average cost of $16,000; and

WHEREAS, child welfare experts suggest that some public resources spent for room, board, and related costs of out-of-home placement might be better utilized providing services directed toward helping a troubled family to continue to function as a complete unit; and

WHEREAS, several border states, including Illinois, Tennessee, and West Virginia, have found that Family Preservation Services offer a more efficient and fiscally effective approach to helping families than out-of-home placement for certain categories of children; and

WHEREAS, by the use of three pilot projects on Family Preservation, the Kentucky Department for Social Services has duplicated the findings of our neighboring states;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

***"Family Preservation Services" means programs that:***

***(1) Follow intensive, home-based service models with demonstrated effectiveness in reducing or avoiding the need for out-of-home placement;***

***(2) Provide such services that their operation results in lower costs than would out-of-home placement;***

***(3) Employ specially trained caseworkers who shall:***

***(a) Provide at least half their services in the family's home or other natural community setting;***

***(b) Provide services to no more than four (4) families at any one (1) time;***

***(c) Provide direct therapeutic services available twenty-four (24) hours per day for an average of at least forty-five (45) days per family;***

***(d) Aid in the solution of practical problems that contribute to family stress so as to effect improved parental performance and enhanced functioning of the family unit;***

***(e) Arrange for additional assistance, including but not limited to, housing, child care, education, and job training, emergency cash grants, state and federally funded public assistance, and other basic support needs; and***

***(f) Supervise any paraprofessionals or "family aides" made available to provide specialized services or skills to manage everyday problems and better provide and care for its children.***

***(4) Have available moneys to be spent at the caseworkers discretion to enhance the success of the intervention.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

***The secretary for Human Resources shall:***

***(1) Make those services to children and their families known as "Family Preservation Services" accessible to twenty percent (20%) of children at imminent risk of being placed outside their homes by 1995 and eventually to all cases where the removal of a child is imminent and provision of such services appropriate;***

*(2) Ensure that the state-wide availability of Family Preservation Services be accomplished in an orderly fashion allowing the development and evaluation of different program models necessary to provide services across the geographic diversity of the state; and*

*(3) Accomplish the implementation of Family Preservation Services by consultation with professionals in the child welfare field, using any technical assistance available from the National Conference of State Legislatures and the Center for the Study of Social Policy.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) The Department for Social Services shall be the lead administrative agency for Family Preservation Services and may receive funding for the implementation of such services. The Department for Social Services shall:*

*(a) Provide the coordination of and planning for the implementation of Family Preservation Services;*

*(b) Provide standards for Family Preservation Services programs;*

*(c) Monitor such services to ensure they meet measurable standards of performance as set forth in state law and as developed by the Department for Social Services; and*

*(d) Approve the training required by providers of Family Preservation Services.*

*(2) The Department for Social Services may provide Family Preservation Services directly or may contract with a private, non-profit social service agency to provide such services. In the event the department provides Family Preservation Services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker/case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family Preservation Service caseworkers and cases shall be included in the report as a separate category.*

*(3) In the event a non-profit social service agency is contracted by the Department for Social Services, to provide Family Preservation Services, the contract shall include:*

*(a) Requirements for provider acceptance of any client referred by the Cabinet for Human Resources for Family Preservation Services;*

*(b) Limitation of caseload to four (4) or fewer families per caseworker;*

*(c) Provision of twenty-four (24) hour crisis intervention services to families served by the program;*

*(d) Provision for training of Family Preservation Services staff to meet the following minimum standards:*

*1. Intensive training of not less than forty (40) hours to any therapist before Family Preservation Service clients are assigned. This training is to be provided by individuals with recognized expertise regarding Family Preservation Service and is to concern itself with the required knowledge skills, and techniques for success within the Family Preservation Service model;*

*2. A plan for the continuing education of staff therapists after the initial forty (40) hours;*

*3. Training of not less than twenty (20) hours for a paraprofessional family aide before provision of services without the direct supervision of a Family Preservation Service caseworker;*

*(e) Provide for and conduct internal program evaluation and cooperate with external evaluation as directed by the Department for Social Services;*

*(4) To qualify for continued funding under subsection (3) of this section, an agency contracting to provide Family Preservation Services shall demonstrate an annual success rate of seventy-five percent (75%) in avoiding out-of-home placement six (6) months after the cessation of Family Preservation Services.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) Family Preservation Services shall be provided only to those children who are at actual, imminent risk of out-of-home placement, in situations in which Family Preservation Services afford effective protection of children, youth, families, and the community. This shall include children:*

*(a) Who are at risk of commitment as dependent, abused, or neglected;*

*(b) Who are emotionally disturbed; and*

*(c) Whose families are in conflict such that they are unable to exercise reasonable control of the child.*

*(2) Families in the following situations shall not be eligible for Family Preservation Services:*

*(a) Families in which children are at risk of recurring sexual abuse perpetrated by a member of their immediate household who remains in close physical proximity to the victim or whose continued safety from recurring abuse cannot be reasonably assured; and*

*(b) Families in which one (1) or more adults in the immediate household are drug or alcohol dependent and not in active treatment for such dependency.*

*(3) The implementation of Family Preservation Services shall be limited to those situations where protection can be assured for children, families, and the community.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) The provision of Family Preservation Services to a family shall constitute a reasonable effort by the Cabinet for Human Resources to prevent the removal of a child from the child's home under KRS 620.140, provided that the family has received timely access to other services from the Cabinet for Human Resources for which the family is eligible.*

*(2) Acceptance of Family Preservation Services shall not be considered an admission of any allegation that initiated the investigation of the family, nor shall refusal of Family Preservation Services be considered as evidence in any proceeding except where the issue is whether the Cabinet for Human Resources has made reasonable efforts to prevent removal of a child.*

*(3) No Family Preservation Services program shall compel any family member to engage in any activity or refrain from any activity which is not reasonably related to remedying a condition or conditions that gave rise or which could reasonably give rise to any finding of child abuse, neglect or dependency.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) The secretary for Human Resources shall conduct a yearly evaluation of Family Preservation Services which shall include the following:*

*(a) The number of families in which Family Preservation Services would be available alternative to placement of the child if available;*

*(b) The number of families receiving Family Preservation Services and the number of children in those families;*

*(c) Among those families receiving Family Preservation Services, the number of children placed outside the home;*

*(d) The average cost per family of providing Family Preservation Services;*

*(e) The estimated cost of out-of-home placement which would have been expended on behalf of those children who received Family Preservation Services based on average lengths of stay and average costs of out-of-home placements;*

*(f) The number of children who remain unified with their families six (6) months and one (1) year after completion of Family Preservation Services; and*

*(g) An overall evaluation of the progress of Family Preservation Service programs during the preceeding year, recommendations for improvements in delivery of this service, and a plan for the continued development of Family Preservation Services to ensure progress toward statewide availability.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*(1) The secretary for Human Resources may re-direct funds from amounts budgeted to serve children in out-of-home placement for the purposes of providing Family Preservation Services to children who would otherwise be removed from their homes.*

*(2) The secretary for Human Resources may use any funds that become available through an increase in reimbursement of funds from Title 4-E of the Social Security Act as amended by P.L. 96-272 for the purposes of providing Family Preservation Services to children who would otherwise be removed from their homes.*

The Committee Amendment No. 1 to **HB** 887 is as follows:

Amend printed copy of **HB** 887 on page 3, line 26, by deleting the words "*twenty percent (20%)*" and inserting in lieu thereof "*forty percent (40%)*";

And on page 5, line 2, by deleting the words "***Approve the***" and inserting in lieu thereof "***Provide the initial training and approve any ongoing***".

### Calendar

**HB 521**, **HB 830**, **HB 278**, **HB 279**, **HB 280**, **HB 447**, **HB 576**, **HB 578**, **HB 588**, **HB 592**, **HB 648**, **HB 650**, **HB 682**, **HB 683**, **HB 686**, **HB 699**, **HB 746**, **HB 762**, **HB 763**, **HCR 50**, **HJR 174**, **HB 529** and **HCR 158** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**SB 148** and **SB 228** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Orders of the Day

**HB 474** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 474** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 13, 1990 roll call on **HB 474** - Appendix.)

**HB 474** was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 474** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 407**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Committee Substitute to **HB 407**. Agreed.

Representative Geveden moved that **HB 407**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 13, 1990 roll call on **HB 407** - Appendix.)

**HB 407**, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 407**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 428**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 428**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 428**. Agreed.

Representative B. Smith moved that **HB 428**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 428** - Appendix.)

**HB 428**, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 428**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 598** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **HB 598** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 13, 1990 roll call on **HB 598** - Appendix.)

**HB 598** was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 598** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 771**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 771**. Agreed.

Representative B. Smith moved that **HB 771**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 13, 1990 roll call on **HB 771** - Appendix.)

**HB 771**, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 771**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 718** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 718** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 13, 1990 roll call on **HB 718** - Appendix.)

**HB 718** was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 718** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 526**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Strong moved the adoption of Committee Amendment No. 1 to **HB 526**. Agreed.

Representative Strong moved that **HB 526**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 13, 1990 roll call on **HB 526** - Appendix.)

**HB 526**, as amended, was passed and the title agreed to.

Representative Strong moved that the vote by which **HB 526**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 688** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HB 688** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 13, 1990 roll call on **HB 688** - Appendix.)

**HB 688** was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 688** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 450**, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Committee Substitute to **HB 450**. Agreed.

Representative Lewis moved that **HB 450**, by way of Committee Substitute, be passed.

Representative Ark moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 450**. Rejected.

Representative Lewis moved the adoption of Committee Amendment No. 1 to **HB 450**. Agreed.

Representative Lewis moved that **HB 450**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 13, 1990 roll call on **HB 450** - Appendix.)

**HB 450**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 450**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 719** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 719** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 719** - Appendix.)

**HB 719** was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 719** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 51** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that **HB 51** be passed.

On the roll call the vote was: Yeas 87, Nays 5. (See March 13, 1990 roll call on **HB 51** - Appendix.)

**HB 51** was passed and the title agreed to.

Representative Lyne moved that the vote by which **HB 51** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 464**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Casebier moved the adoption of Committee Substitute to **HB 464**. Agreed.

Representative Casebier moved that **HB 464**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 464** - Appendix.)

**HB 464**, by way of Committee Substitute, was passed and the title agreed to.

Representative Casebier moved that the vote by which **HB 464**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 262**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of Committee Substitute to **HB 262**. Agreed.

Representative Priddy moved that **HB 262**, by way of Committee Substitute, be passed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 262**. Agreed.

Representative Priddy moved that **HB 262**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See March 13, 1990 roll call on **HB 262** - Appendix.)

**HB 262**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 262**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 349**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Substitute to **HB 349**. Agreed.

Representative Blevins moved that **HB 349**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 13, 1990 roll call on **HB 349** - Appendix.)

**HB 349**, by way of Committee Substitute, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 349**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 406**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Committee Substitute to **HB 406**. Agreed.

Representative A. Jones moved that **HB 406**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 78, Nays 13. (See March 13, 1990 roll call on **HB 406** - Appendix.)

**HB 406**, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 406**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 446**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Committee Substitute to **HB 446**. Agreed.

Representative A. Jones moved that **HB 446**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 13, 1990 roll call on **HB 446** - Appendix.)

**HB 446**, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 446**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 480**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curtsinger moved the adoption of Committee Substitute to **HB 480**. Agreed.

Representative Curtsinger moved that **HB 480**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 13, 1990 roll call on **HB 480** - Appendix.)

**HB 480**, by way of Committee Substitute, was passed and the title agreed to.

Representative Curtsinger moved that the vote by which **HB 480**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 540**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **HB 540** be passed over. Agreed.

**HB 601** taken from the Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved that **HB 601** be passed.

On the roll call the vote was: Yeas 60, Nays 28. (See March 13, 1990 roll call on **HB 601** - Appendix.)

**HB 601** was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 601** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 113**, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 113** is as follows:

**HB 113**, AN ACT relating to medical care.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) The General Assembly finds that all adults have the fundamental right to control the decisions relating to their own medical care, including the decision to have medical or surgical means or procedures calculated to prolong their lives provided, withheld or withdrawn.*

*(2) In order that the dignity, privacy and sanctity of adults with terminal conditions may be respected even after they are no longer able to participate actively in decisions concerning their medical care, the General Assembly hereby declares that the laws of the Commonwealth of Kentucky shall recognize the right of an adult to make a written declaration pursuant to the provisions of Section 3 of this Act, instructing the adult's physician to withhold or withdraw life-prolonging treatment in the event such person is diagnosed as having a terminal condition.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*As used in this Act:*

*(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.*

*(2) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.*

*(3) "Declaration" means a witnessed document in writing, voluntarily made by the declarant in accordance with the requirements of Section 3 of this Act.*

*(4) "Health care facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care, and licensed pursuant to KRS Chapter 216B.*

*(5) "Life-prolonging treatment" means any medical procedure, treatment or intervention which:*

*(a) Utilizes mechanical or other artificial means to sustain, prolong, restore or supplant a spontaneous vital function or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition; and*

*(b) When applied to a patient in a terminal condition, would serve only to prolong the dying process. "Life-prolonging treatment" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain or for nutrition or hydration.*

*(6) "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.*

*(7) "Qualified patient" means an adult patient of sound mind who has:*

*(a) Made a declaration in accordance with this Act;*

*(b) Been diagnosed by the attending physician and one (1) other physician as having a terminal condition, with said condition noted by both in the patient's medical record; and*

*(c) Who is not known to be pregnant provided that for any adult woman of child-bearing age who has made a declaration and been diagnosed in writing as having a terminal condition, the attending physician shall cause a test to be made to determine if the woman is pregnant.*

*(8) "Terminal condition" means a condition caused by injury, disease or illness which, to a reasonable degree of medical probability, as determined solely by the qualified patient's attending physician and one (1) other physician, is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) An adult may, prior to or after having been diagnosed as having a terminal condition, make a written declaration directing the withholding or withdrawal of life-prolonging treatment.*

*(2) Except as provided in Section 7 of this Act, a declaration made pursuant to this section shall be honored by a declarant's family, regular family physician or attending physician, and any health care facility of or in which the declarant is a patient. A declaration made pursuant to this section shall be substantially in the following form, and may include other specific directions. Should any other specific directions be held by a court of appropriate jurisdiction to be invalid, such invalidity shall not affect the declaration.*

### *Declaration*

*Declaration made this ______ day of _________, ___ (month, year). I, ________________, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare:*

*If at any time I should have a terminal condition and my attending and one (1) other physician in their discretion, have determined such condition is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process, I direct that such treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain or for nutrition or hydration.*

*In the absence of my ability to give directions regarding the use of such life-prolonging treatment, it is my intention that this declaration shall be honored by my attending physician and my family as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of such refusal.*

*If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.*

*I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.*

*STATE OF KENTUCKY)*

*)Sct.*

*COUNTY OF ______________________)*

*Before me, the undersigned authority, on this day personally appeared __________________, Living Will Declarant, and ________________ and ________________, known to me to be witnesses whose names are each signed to the foregoing instrument, and all these persons being first duly sworn, ____________________, Living Will Declarant, declared to me and to the witnesses in my presence that the instrument is the Living Will Declaration of the declarant and that the declarant has willingly signed and that such declarant executed it as a free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence and hearing of the Living Will Declarant, that the declarant signed the declaration as witness and to the best of such witness's knowledge, the Living Will Declarant was eighteen (18) years of age or over, of sound mind and under no constraint or undue influence.*

____________________________

*Living Will Declarant*

____________________________

*Witness*

____________________________

*Address*

*________________________*
*Witness*

*________________________*
*Address*

*Subscribed, sworn to and acknowledged before me by ____________ and ____________, Living Will Declarant, and subscribed and sworn before me by ________________________ and ________________________, witnesses, on this the ____ day of ____________ (year).*

*________________________*
*Notary Public State At Large*

*________________________*
*Date my commission expires*

*(3) A written declaration shall be signed by the declarant in the presence of two (2) subscribing witnesses. In no instance shall any of the following be a witness to any declaration made under this Act:*

*(a) A blood relative who would be a beneficiary of the declarant; or*

*(b) A beneficiary of the declarant under descent and distribution statutes of the Commonwealth; or*

*(c) An employe of a health care facility in which the declarant is a patient; or*

*(d) An attending physician of the declarant; or*

*(e) Any person directly financially responsible for the declarant's health care.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*It shall be the responsibility of the declarant to provide for notification to the declarant's attending physician that a declaration has been made. In the event the declarant is comatose, incompetent or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of a declaration. An attending physician who is so notified shall promptly make the declaration or a copy of the declaration a part of the declarant's medical records.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) A declaration may be revoked by:*

*(a) A writing declaring an intention to revoke, which writing shall be signed and dated by the declarant; or*

*(b) An oral statement by the declarant of an intent to revoke; or*

*(c) The declarant or by some person in the declarant's presence and at the declarant's direction, by cutting, tearing, burning, obliterating, canceling, or destroying the declaration, or the signature thereto, with the intent to revoke.*

*(2) An oral statement by the declarant to revoke a declaration shall override any previous written declaration made.*

*(3) Any such revocation shall become effective immediately. An attending physician or health care facility shall not be required to administer treatment in accordance with the revocation until such time as notice of the revocation is received. Upon receiving notice of the revocation, the attending physician or health care facility shall record, in the declarant's medical record, the time, date and place of such notice receipt. No physician or health care facility shall be subject to any liability for acting in good faith upon the knowledge, or lack thereof, of the existence or revocation of a declaration.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) A health care facility, physician or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-prolonging treatment from a patient in a terminal condition in accordance with this Act. A person who authorizes the withholding or withdrawal of life-prolonging treatment from a patient in a terminal condition in accordance with a declaration shall not be subject to criminal prosecution or civil liability for such action.*

*(2) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the withholding or withdrawal of life-prolonging treatment did not, in good faith, comply with the provisions of this Act. A declaration made in accordance with Section 3 of this Act shall be presumed to have been made voluntarily and validly executed unless the attending physician or health care facility has actual knowledge to the contrary.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) Where an individual has been diagnosed as having a terminal condition and has executed a declaration, prior to or at the time of admission to a health care facility, the individual or the family or guardian of the individual shall inform the attending physician and health care facility of the existence of a declaration. An attending physician or health care facility which refuses to comply with the declaration of a qualified patient shall immediately inform the patient and the family or guardian of the patient of such refusal. No physician or health care facility which refuses to comply with the declaration of a qualified patient shall impede the transfer of such patient to another physician or health care facility which will comply with the declaration. In cases where the patient, the family, or the guardian of the patient, has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance, as may be medically necessary for the continued care of the patient, to the receiving physician and health care facility.*

*(2) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility the person's objection to complying with the declaration of a qualified patient on moral, religious or professional grounds, shall be required to or held liable for refusal to comply with the declaration of a qualified patient as long as the physician, nurse staff member or employee complies with the requirements of subsection (1) of this section regarding patient notification and patient transfer.*

*(3) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member or employee who refuses to comply with the declaration of a qualified patient and provided the person complies with the provisions of subsections (1) and (2) of this section.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*Nothing in this Act shall be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act to end life other than to permit the natural process of dying.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) The withholding or withdrawal of life-prolonging treatment from a qualified patient in accordance with the provisions of this Act shall not, for any purpose, constitute a suicide. Nor shall the making of a declaration pursuant to Section 3 of this Act affect the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated by the withholding or withdrawal of life-prolonging treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.*

*(2) No physician, health care facility, or other health care provider shall require any person to make a declaration as a condition of receiving health care services. No contract for health insurance, or disability insurance, or credit health insurance or insurance under any nonprofit hospital, medical-surgical, dental and health service corporation, or any self-insured private employer group plan, or any health maintenance organization as provided under KRS Chapter 304 shall require any person to make a declaration as a condition of being insured for health care services; neither shall any of the aforementioned health insurance contracts or plans be legally impaired or invalidated in any manner by the making of a declaration or the withholding or withdrawal of life-prolonging treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

*(1) This Act creates no presumption concerning the intention of an adult who has revoked or has not executed a declaration with respect to the use, withholding, or withdrawal of life-prolonging treatment in the event of a terminal condition.*

*(2) This Act shall not affect the common law or statutory right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any common law or statutory right that an adult has to effect the withholding or withdrawal of medical care.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***(1) Any person who willfully conceals, cancels, defaces, obliterates, or damages the declaration of another without the declarant's consent or who falsifies or forges a revocation of the declaration of another, thereby causing life-prolonging treatment to be utilized in contravention of the previously expressed intent of the patient shall be civilly liable.***

***(2) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-prolonging treatment, contrary to the wishes of the declarant, and thereby, because of such act, directly cause life-prolonging treatment to be withheld or withdrawn and death to be hastened, shall be guilty of a Class B felony.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***This Act may be cited as the "Kentucky Living Will Act."***

Representative Scorsone moved that the House concur in Senate Committee Substitute to **HB 113**. Agreed.

Representative Scorsone moved that **HB 113**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 67, Nays 23. (See March 13, 1990 roll call on **HB 113** - Appendix.)

**HB 113**, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 113**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 352**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 352** is as follows:

Amend printed copy of **HB 352** on page 1, line 9, by deleting "***after October 1, 1989,***"; and

on page 1, line 12, by adding thereafter:

"***The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on October 1, 1989 or thereafter.***".

Representative L. Clark moved that the House concur in Senate Amendment No. 1 to **HB 352**. Agreed.

Representative L. Clark moved that **HB 352**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 352** - Appendix.)

**HB 352**, as amended by the Senate, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 352**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 301**, with Senate Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 301** is as follows:

Amend printed copy of **HB 301** on page 1, lines 9, 10, and 11 by deleting the following: "***or if the fiscal court in the county of the community requests by resolution that a sign be installed a copy of the resolution be furnished to the department***"

Representative Stumbo moved that the House concur in Senate Amendment No. 1 to **HB 301**. Agreed.

Representative Stumbo moved that the House concur in Senate Floor Amendment No. 2 to **HB 301**.

Representative Hancock inquired whether a fiscal impact statement pursuant to House Rule 52 should be attached to Senate Amendment No. 2 to **HB 301**.

Representative Hancock moved that a fiscal impact statement on Senate Floor Amendment No. 2 to **HB 301**. Agreed.

Representative Hancock moved that **HB 301** as amended by the Senate Amendment No. 1 and with Senate Floor Amendment No. 2 attached thereto, be passed over. Agreed.

**HB 453**, with Senate Committee Substitute and Senate Committee Title Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 453** is as follows:

**HB 453**, AN ACT relating to independent candidates.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, ***nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election***. This restriction shall not apply to candidates to those offices specified in KRS 118.105(4), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class or to candidates participating in nonpartisan elections.

(2) ***The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters of the same political party affiliation from the district or jurisdiction from which the candidate seeks nomination.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county except as herein provided, twenty (20) petitioners. ***It shall not be necessary that*** the signatures of the petition [~~need not~~] be appended to one (1) paper. Each petitioner shall include his residence, Social Security number and post-office address. ***Failure of a voter to include his Social Security number and address shall result in his signature not being counted.*** If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. [~~The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers are legally qualified, to vote for the candidate. Except for municipal, school board and supervisor of soil and water conservation district races, petition may designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.~~]

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

[~~(5) The State Board of Elections shall prescribe the forms for the petition.~~]

The Senate Committee Title Amendment No. 1 to the Senate Committee Substitute to **HB 453** is as follows:

Amend printed copy of **HB 453** by amending the title to read "AN ACT relating to elections.".

Representative B. Smith moved that the House concur in Senate Committee Substitute to **HB 453**. Agreed.

Representative B. Smith moved that the House concur in Senate Committee Title Amendment No. 1 to the Senate Committee Substitute to **HB 453**. Agreed.

Representative B. Smith moved that **HB 453**, by way of Senate Committee Substitute as amended by the Senate be passed.

Representative B. Smith moved that **HB 453** by way of Senate Committee Substitute as amended by the Senate be passed over. Agreed.

Representative B. Smith moved that **HB 453** by way of Senate Committee Substitute as amended by the Senate be placed in Orders of the Day, March 14, 1990. Agreed.

**HB 511**, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 511** is as follows:

Amend printed copy of **HB 511** on page 1, line 20, after the word "*others*" by inserting "*, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing*";

And on page 7, line 4, after "SECTION 4." by inserting the following new section:

"*(1) Mentally retarded minors and adult persons may be voluntarily admitted for care and treatment in an ICF/MR under the applicable provisions of this section.*

*(2) Upon the recommendation or approval of the interdisciplinary team of an ICF/MR, a physician may admit for care and treatment a mentally retarded minor upon application of a parent or guardian. Upon recommendation or approval of the interdisciplinary team of an ICF/MR, the physician may also admit a mildly or moderately mentally retarded adult person who applies voluntarily therefor and who, in the opinion of the physician, possesses the mental capacity to give informed consent for admission.*

*(3) Upon recommendation or approval of the interdisciplinary team of an ICF/MR, the physician shall discharge any voluntarily admitted resident whose care and treatment in the ICF/MR is determined to be no longer necessary or advisable.*"

And by renumbering the remaining sections to conform;

And on page 18, line 3, by inserting "*A physician of*" before the word "*An*";

And on page 18, line 18, by deleting "*Section 15*" and inserting in lieu thereof "*Section 18*";

And on page 23, line 12, by deleting "*An interdisciplinary team*" and inserting in lieu thereof "*The physician*";

And on page 23, line 14, after the word "*determined*" by inserting "*by the interdisciplinary team*";

And on page 25, line 14, by deleting "*An interdisciplinary team*" and inserting in lieu thereof "*A physician*";

And on page 27, line 4, by deleting "*An*" before the word "*interdisciplinary*" and inserting in lieu thereof "*Upon recommendation or approval of the*";

And on page 27, line 4, after "*ICF/MR*" by inserting "*, a physician*".

Representative Heleringer moved that the House concur in Senate Floor Amendment No. 1 to **HB 511**. Agreed.

Representative Heleringer moved that **HB 511**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 4. (See March 13, 1990 roll call on **HB 511** - Appendix.)

**HB 511**, as amended by the Senate, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 511**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 644** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 644** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 644** - Appendix.)

**HB 644** was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 644** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 677** taken from the Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 677** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 13, 1990 roll call on **HB 677** - Appendix.)

**HB 677** was passed and the title agreed to.

Representative Little moved that the vote by which **HB 677** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 678**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Committee Substitute to **HB 678**. Agreed.

Representative Ridley moved that **HB 678**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 13, 1990 roll call on **HB 678** - Appendix.)

**HB 678**, by way of Committee Substitute, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 678**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 696** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 696** be passed.

On the roll call the vote was: Yeas 85, Nays 5. (See March 13, 1990 roll call on **HB 696** - Appendix.)

**HB 696** was passed and the title agreed to.

Representative Little moved that the vote by which **HB 696** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 701** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HB 701** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 13, 1990 roll call on **HB 701** - Appendix.)

**HB 701** was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 701** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 707**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of Committee Amendment No. 1 to **HB 707**. Agreed.

Representative Gregory moved that **HB 707**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 13, 1990 roll call on **HB 707** - Appendix.)

**HB 707**, as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 707**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 800**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HB 800** be passed.

Representative Crupper moved the adoption of Committee Amendment No. 1 to **HB 800**. Agreed.

Representative Ark moved that **HB 800**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 800** - Appendix.)

**HB 800**, as amended, was passed and the title agreed to.

Representative Ark moved that the vote by which **HB 800**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 745** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 745** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 13, 1990 roll call on **HB 745** - Appendix.)

**HB 745** was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 745** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 755** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 755** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 13, 1990 roll call on **HB 755** - Appendix.)

**HB 755** was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 755** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 500** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 500** be passed.

On the roll call the vote was: Yeas 81, Nays 10. (See March 13, 1990 roll call on **HB 500** - Appendix.)

**HB 500** was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 500** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 314** be taken from Orders of the Day for consideration of the Governor's veto. Agreed.

Representative Long moved that **HB 314** be placed on its passage, the Governor's veto notwithstanding. Agreed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 13, 1990 roll call on **HB 314** - Appendix.)

**HB 314** was passed over the Governor's veto.

Representative Long moved that the vote by which **HB 314** was passed, the Governor's veto notwithstanding, be reconsidered and said motion be placed on the table. Agreed.

**HB 911** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 911** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 13, 1990 roll call on **HB 911** - Appendix.)

**HB 911** was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 911** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 783**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Amendment No. 1 to **HB 783**. Agreed.

Representative LeMaster moved that **HB 783**, as amended, be passed.

Representative Overstreet moved that **HB 783**, as amended, be passed over and placed on the Clerk's Desk. Agreed.

**HB 635** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 635** be passed.

On the roll call the vote was: Yeas 94, Nays ). (See March 13, 1990 roll call on **HB 635** - Appendix.)

**HB 635** was passed and the title agreed to.

Representative Long moved that the vote by which **HB 635** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 809**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Committee Amendment No. 1 to **HB 809**. Agreed.

Representative Arnold moved that **HB 809**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 13, 1990 roll call on **HB 809** - Appendix.)

**HB 809**, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 809**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 898**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 898**. Agreed.

Representative Moberly moved that **HB 898**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1990 roll call on **HB 898** - Appendix.)

**HB 898**, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 898**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

### Motions, Petitions and Communications

Representative Stumbo moved that **HB 812** and **HB 756** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stokes moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stokes moved the adoption of the following Legislative Citation No. 60. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates the Ballard High School Academic Team.

This body proudly salutes the the Ballard High School Academic Team upon your third consecutive victory in the Kentucky Academic Association's Governor's Cup Competition. This fifth annual competition brought 1500 students from 77 schools across the state together to compete for top academic honors. To emerge with the state title is indeed an admirable achievement. Your victory reflects a high standard of performance, dedication, hard work and personal sacrifice. May the memories and merits of this accomplishment remain with you and guide you through future endeavors.

This prestigious body joins Representative Susan Stokes in saluting you. We extend our very best wishes for your continued success.

Representative Stokes individually honored the following members of the Ballard High School Academic Team:

Tara Anderson, Mikai Chakraborty, Jeff Chao, Elaine Colley, Andrew Colville, Daniel Frockt, Terran Lane, Mark Roseberry, Minesh Shah, Tommy Stipes, Robert Williams, and Gary Yen.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

## Introductions of Bills and Resolutions

**HR 203**, by Representatives Gray, Hatcher and Bronger: A RESOLUTION adjourning the House of Representatives in honor and memory of Milburn Taylor Maupin.

## Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **SB 319**, **SB 331**, **SB 239**, **SB 257**, **SB 82**, **SB 132**, **SB 318**, **HB 812**.

Cities: **SB 340**.

Business Organizations and Professions: **HB 420**, **HB 566**, **HB 568**, **HB 655**, **HB 801**, **HB 909**, **SB 280**, **SB 290**, **SB 105**.

Judiciary: **SB 305**.

Transportation: **HJR 185**.

State Government: **HCR 144**, **HB 741**, **HB 836**.

Elections and Constitutional Amendments: **SB 304**.

## Report of Committees

The Committee on Natural Resources and Environmental Protection reported **HB 758** with Committee Substitute attached thereto, **HB 796** with Committee Substitute attached thereto, and **SB 190** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 758**, AN ACT relating to environmental protection.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any other provision of law, the Natural Resources and Environmental Protection Cabinet shall not, except as provided in subsection (2), promulgate or enforce any administrative regulation, rule, requirement, or policy, including any existing administrative regulation, rule, requirement or policy, which is more stringent than the regulation, rule, requirement or policy that would be applicable under federal authority. The cabinet shall not apply its administrative regulations, rules, requirements, or policies in a manner that would impose more stringent obligations than would have been imposed under applicable federal authorities.***

***(2) The cabinet may promulgate administrative regulations, rules, or requirements which are more stringent than federal requirements if there are no requirements applicable under federal authority. Delegation of federal authority to the cabinet shall not be deemed to create a void in federal regulation. The cabinet may promulgate administrative regulations, rules, or requirements which are more stringent than federal requirements where the cabinet determines that it is necessary in order to address unique environmental***

*circumstances in the Commonwealth. The cabinet shall base its determination as to the existence of unique environmental circumstances on environmental and physical conditions which are present in the Commonwealth and which are fundamentally different from conditions in other areas, but shall not base its determination solely on geographic boundaries. Any determination shall be made after notice and comment and shall be based upon a specific finding that federal regulations, rules, requirements, or policies are clearly inadequate to protect the public interest. The cabinet shall set forth any determination in the federal mandate analysis prepared in accordance with KRS 13A.245.*

*(3) Within six (6) months of the effective date of this section, the cabinet shall complete a review of its existing administrative regulations and repeal, revise, modify, or continue in effect any administrative regulations as necessary to conform with the requirements of this section. If any administrative regulation is continued in effect pursuant to subsection (2), the cabinet shall set forth the basis for its determination in the federal mandate analysis prepared in accordance with KRS 13A.245.*

*(4) Any administrative regulation which is promulgated or continued in effect by the cabinet pursuant to subsection (2) and which imposes requirements that are more stringent than applicable federal requirements shall remain in effect only to the extent codified in whole or in part by the General Assembly in the first regular legislative session following promulgation of the administrative regulation or a determination to continue in effect and existing administrative regulation. To the extent that the administrative regulation is not codified by the General Assembly, it shall be of no force and effect on and after the effective date for acts of that session of the General Assembly.*

The Committee Substitute to HB 758 is as follows:

HB 758, AN ACT relating to environmental protection.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall not promulgate any new regulation, rule or policy, or continue in effect any existing regulation, rule or policy which is more stringent than the regulations, rules or policies in effect underfederal authority except as provided in subsection (2) of this section.*

*(2) The cabinet may promulgate new regulations, rules or policies or continue in effect existing regulations, rules or policies which are more stringent than the regulations, rules, or policies in effect under federal authority under the following circumstances:*

*(a) If there are no applicable regulations, rules or policies in effect under federal authority;*

*(b) If the cabinet's regulations, rules or policies are necessary to address environmental conditions unique to the Commonwealth of Kentucky; or*

*(c) Applicable federal regulations are substantially inadequate to provide necessary protection for the environment of the Commonwealth of Kentucky.*

*If the cabinet promulgates a new regulation, rule or policy or continues in effect an existing regulation, rule or policy in accordance with this subsection, the cabinet shall include in the federal mandate analysis prepared in accordance with KRS 13A.245 a detailed statement of the basis for its determination that a more stringent state regulation, rule or policy is necessary, appropriate, and authorized by this subsection.*

*(3) (a) The cabinet shall, prior to filing any proposed regulation, rule or policy with the Legislative Research Commission, issue general public notice of its intent to promulgate a new regulation, rule or policy and hold a hearing, open to the public, on the proposed regulatory action. The public notice shall include a summary of the proposed regulatory action and shall state the place, time and date of the scheduled public hearing, which shall be no less than thirty (30) days from the date of the publication of the notice. The notice shall state the manner in which interested persons may submit written comments on the proposed regulatory action.*

*(b) The hearing shall be conducted in a manner as to guarantee each person who wishes to offer a comment a fair and reasonable opportunity to do so. No transcript shall be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the hearing shall pay for the transcript.*

*(c) Administrative regulations may be grouped at the convenience of the cabinet for purposes of hearings required by this subsection.*

*(d) No proposed regulation, rule or policy shall be filed with the Legislative Research Commission until at least thirty (30) days following the public hearing conducted thereon.*

*(4) Within six (6) months of the effective date of this Act, the cabinet shall begin a review and repromulgation of its existing regulations, rules and policies in accordance with subsection (3) of this section and KRS Chapter 13A. The review shall be completed no later than one (1) year from the effective date of this Act. The cabinet shall determine whether its existing regulations, rules and policies are more stringent than applicable federal regulations, rules or policies, repromulgate existing regulations, rules or policies that are not more stringent than applicable federal regulations, rules or policies, and repeal, revise, or continue in effect, pursuant to subsection (2) of this section, those existing regulations, rules or policies that are more stringent than applicable federal regulations, rules or policies.*

*(5) Any regulation, rule or policy which is promulgated or continued in effect by the cabinet pursuant to subsection (2) of this section shall remain in effect only to the extent codified in whole or in part by the General Assembly in a duly convened legislative session following or at the time of promulgation of the regulation, rule or policy or a determination to continue in effect an existing regulation, rule or policy. To the extent that the regulation, rule or policy is not codified by the General Assembly, it shall be of no force and effect on and after the effective date for acts of that session of the General Assembly.*

*(6) This section shall not be construed to repeal by implication any existing statutory provision or the regulations promulgated pursuant to any existing provision of KRS Chapter 224 if the statutory provisions are more stringent than their federal counterparts, nor shall it be construed to diminish in any manner the authority granted to fiscal courts with regard to approval of hazardous waste incineration facilities pursuant to KRS Chapter 224.*

**HB 796**, AN ACT relating to a vehicle emission control program.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*As used in this Act unless the context clearly indicates otherwise:*

*(1) "Compliance certificate" means an official emission inspection certificate issued by the cabinet or a county, air pollution control district, contractor or fleet operator authorized by the cabinet, indicating that a vehicle has been tested in accordance with this Act and complies with all applicable emission standards;*

*(2) "Independent contractor" means any person, business firm, partnership or corporation with whom the cabinet or a fiscal court may negotiate an agreement providing for construction, equipment, maintenance, personnel, management, and operation of an official emission inspection station;*

*(3) "Control system" means equipment designed for installation or installed on a motor vehicle for the purpose of reducing the air contaminants emitted from the vehicle or a system or engine adjustment or modification which causes a reduction of air contaminants emitted from the vehicle;*

*(4) "Exemption certificate" means an official exemption certificate issued by the cabinet or a county, air pollution control district, contractor or fleet operator authorized by the cabinet, indicating that a vehicle is exempt from certain requirements of this Act;*

*(5) "Inspection station" means an official vehicle emission inspection facility whether placed in a permanent structure or in a mobile unit for conveyance among various locations within this Commonwealth, to conduct emission inspections of vehicles required to be inspected pursuant to this Act;*

*(6) "Vehicle" means any automobile or truck registered in this Commonwealth having a combined manufacturer's weight of vehicle and maximum load to be carried of up to eighteen thousand (18,000) pounds, which is equivalent to eight thousand one hundred eighty-two (8,182) kilograms, or less and used upon the public highways of the Commonwealth for the purpose of transporting persons or property; and*

*(7) "Vehicle emission control program" means a program developed by the cabinet or by an air pollution control district pursuant to this Act which provides for the control of vehicle emissions of any air contaminant.*

SECTION 2. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall administer or provide for a comprehensive vehicle emission control program which may require the annual inspection of vehicles in counties designated by administrative regulation of the cabinet to be nonattainment for ozone, carbon monoxide or nitrogen dioxide if a program is necessary or prudent to meet federal air quality standards.*

*(2) The cabinet shall adopt emission standards which may vary by model year, class of vehicle, engine type or size, and may provide for the exemption of certain classes of vehicles from the requirements of this Act.*

*(3) The cabinet shall adopt conditions for compliance certificates and exemption certificates.*

*(4) The cabinet may administer or provide for a program to train and certify mechanics in the maintenance of control systems and techniques of engine maintenance which affect vehicle emissions, and may charge a fee for the program.*

*(5) The cabinet may administer or provide for the issuance and revocation of certificates to qualified mechanics and may charge a fee for the certificates.*

*(6) The cabinet shall adopt procedures, including inspection schedules necessary to implement the comprehensive vehicle emission control program.*

*(7) The cabinet may promulgate administrative regulations necessary to administer this Act.*

SECTION 3. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially numbered and may be otherwise identified. Certificates shall be strictly accounted for by the issuing authority.*

*(2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption certificate issued pursuant to this Act. Vehicles with state or official registration routinely operating in these counties shall be inspected at least once within each twelve (12) month period following the original registration.*

SECTION 4. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall establish the fee required to be paid for an emission inspection. The fee may cover all costs of implementing this Act.*

*(2) The fee charged for issuance of a compliance certificate or an exemption certificate shall be collected with the motor vehicle registration renewal fee by the county clerk at the time and place of motor vehicle registration pursuant to KRS Chapter 186, unless an independent contractor is authorized pursuant to Section 7 of this Act to collect inspection fees.*

*(3) Except as provided by Sections 7 and 8 of this Act:*

*(a) The clerk of each county shall collect the emission inspection fee; and*

*(b) All money received from inspection fees by the county clerk shall be remitted quarterly to the cabinet, except for a sum of no more than twenty-five cents (25) per vehicle which the county clerk may retain.*

*(4) The cabinet shall promptly transmit all money collected pursuant to this Act to the State Treasurer who shall deposit it in the vehicle emission control fund account.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the "vehicle emission control fund," which shall consist of:*

*(a) Money appropriated by the General Assembly;*

*(b) All money remitted by county clerks which is collected for vehicle emissions inspections:*

*(c) All money remitted by county fiscal courts which have been delegated authority to implement a vehicle emission control program;*

*(d) Money received from private grants or donations; and*

*(e) Money received from the United States by grant or otherwise to assist the Commonwealth in any vehicle emission control program.*

*(2) The cabinet shall administer the vehicle emission control fund to achieve the purposes of this Act.*

*(3) Money in the vehicle emission control fund shall not revert to the general fund and shall be exempt from the provisions of KRS 45.230 relating to lapsing of appropriations.*

*(4) All purchases, capital outlay, and operating costs relating to the vehicle emission control program conducted pursuant to this Act shall be charged against the vehicle emission control fund.*

SECTION 6. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may prescribe, by administrative regulation, for vehicle emission control, standards for use of a fuel or fuel additive in a vehicle or vehicle engine the use of which fuel would damage or render ineffective a control system installed on the vehicle.*

*(2) The cabinet may prohibit, by administrative regulation, any person from removing, altering, or causing the removal or alteration of a control system to diminish its effectiveness.*

*(3) This section shall not apply to motor vehicles that are used exclusively for competition and are not operated on the public streets and highways.*

SECTION 7. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may enter into an agreement with one (1) or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance and operation of official vehicle emission inspection stations in the numbers and locations required to provide vehicle owners reasonably convenient access to inspection facilities.*

*(2) The cabinet shall be prohibited from entering into an agreement with any independent contractor who is engaged in the business of manufacturing, selling, maintaining or repairing vehicles and vehicle replacement or repair parts in the Commonwealth, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor.*

*(3) The agreement authorized by this section shall contain provisions relating to the following:*

*(a) That the Commonwealth shall not be required to purchase any asset or assume any liability if the agreement is not renewed;*

*(b) That the contractor is authorized to collect the inspection fee for a test in the amount fixed by the cabinet;*

*(c) That the Commonwealth shall be reimbursed by the contractor for not less than ten percent (10%) of the inspection fee, although the cabinet may waive this fee for programs operated by air pollution control districts;*

*(d) That reports and documentation shall be submitted to the cabinet if required concerning the operation of the official vehicle emission inspection stations; and*

*(e) That the cabinet has discretion to investigate the operation of the official vehicle emission inspection stations as the conditions and circumstances of the operation may indicate, and that the cabinet may revoke the contract if it finds that the stations are not operated in accordance with this Act or that the contractor has failed or refused to submit records or documentation required by this Act.*

*(4) The agreement may contain any provisions deemed necessary by the cabinet for the administration or enforcement of this Act.*

SECTION 8. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) Any registered owner or lessee of a fleet of vehicles may apply to the cabinet for a permit to establish at his own expense a fleet inspection station. The cabinet shall not issue any fleet inspection station permit until it has found that the applicant:*

*(a) Maintains an established place of business or facility for the repair and maintenance of the applicant's fleet of vehicles;*

*(b) Has obtained machinery, tools and equipment approved by the cabinet and adequate to conduct the required emissions inspections;*

*(c) Employs properly trained personnel with which to perform the necessary labor; and*

*(d) Will keep complete records of all inspections performed and repairs made and will provide the information or data to the cabinet.*

*(2) An operator of a fleet inspection station holding a valid permit shall, upon filing an application in the manner and form prescribed by the cabinet, receive a sufficient number of certificate forms for each*

*vehicle in the applicant's fleet. No inspection certificate shall be issued to any fleet vehicle until it has been inspected and found to comply with all the standards that the vehicle would be required to meet at any inspection station.*

*(3) No holder of a fleet inspection station permit shall inspect or certify any vehicle for which the permittee is not the registered owner or lessee.*

*(4) Vehicles owned by a licensed vehicle dealer and which are held for resale as a part of the dealer's business inventory shall be deemed a part of the dealer's vehicle fleet for purposes of this section.*

*(5) The cabinet shall investigate the operation of each fleet inspection station as the conditions and circumstances of the operation may indicate. The cabinet may require the holder of any fleet permit to submit documentation concerning the operation of the inspection station. The cabinet may revoke and require the surrender and forfeiture of any fleet inspection station permit and inspection certificate forms held by a permittee if it finds that the station is not operated in accordance with this Act or that the holder of the permit has failed or refused to submit records or documentation required by this Act.*

*(6) The holder of a fleet inspection station permit shall pay to the cabinet a fee in an amount to be established by regulation.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 224.450 to 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) A county fiscal court may apply to the cabinet for authority to operate a vehicle emission control program. The cabinet may delegate authority when it has found that the applicant:*

*(a) Has obtained approved machinery, tools and equipment approved by the cabinet and adequate to conduct the required emission inspections;*

*(b) Has provided for a sufficient number of facilities to ensure minimum waiting time for vehicles to be inspected;*

*(c) Employs properly trained personnel with whom to perform the necessary inspections;*

*(d) Has adopted minimum emission standards for vehicles at least as stringent as those adopted by the cabinet; and*

*(e) Agrees to provide information prescribed by the cabinet concerning the implementation, administration, and operation of the vehicle emission control program.*

*(2) Any county which has received authority to operate a vehicle emission control program may charge an inspection fee. There shall be established an emission inspection account in the county. Unless an independent contractor is authorized pursuant to Section 7 of this Act to collect inspection fees, the county clerk shall collect the fee at the time of registration renewal in the manner provided for cabinet programs. The inspection fees collected by the county clerk shall be immediately transferred to the county emission inspection account, except for a sum of no more than twenty-five cents (25) per vehicle which the county clerk may retain.*

*(3) A county which has received authority to operate a vehicle emission control program shall transmit to the cabinet's vehicle emission control fund two percent (2%) of the funds received from inspection fees or from the independent contractor authorized pursuant to Section 7 of this Act.*

*(4) The county may use the county's emission inspection fund to acquire any special equipment, tools, employees, material or facilities needed to adequately administer, investigate or enforce the provisions of this Act.*

*(5) The county may enter into a contract with the cabinet and receive state funds charged to the cabinet's vehicle emission control fund to start a vehicle emission control program.*

*(6) A county applying for delegation pursuant to this section may enter into a contract with one (1) or more independent contractors subject to the provisions of Section 7 of this Act to provide for construction, equipment, establishment, maintenance and operation of inspection stations for the purpose of obtaining delegation pursuant to this Act.*

*(7) If the cabinet determines, after a hearing with notice, that a delegated vehicle emission control program is not being administered in accordance with this Act, the delegation of authority may be revoked by order of the cabinet and all unexpended money, equipment and facilities acquired by the county with funds granted by the cabinet shall be transferred to the cabinet.*

SECTION 10. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

***The cabinet may acquire in the name of the Commonwealth by purchase, donation, dedication or other lawful means any special equipment, tools, materials or facilities needed to adequately administer, investigate or enforce this Act.***

SECTION 11. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

***(1) The powers provided to the cabinet by this Act, except the power to delegate authority contained in Section 9, shall be provided to any air pollution control district if:***

***(a) The air pollution control district may function and exercise its powers pursuant to resolution or ordinance as provided in KRS Chapter 77; and***

***(b) The air pollution control district has been granted concurrent jurisdiction by the cabinet pursuant to KRS 224.450.***

***(2) Regulations adopted by an air pollution control district pursuant to this Act shall be subject to prior approval and enforcement by the cabinet as provided in KRS 224.450.***

***(3) Actions taken by an air pollution control district for violations of this Act shall be enforced in accordance with the provisions of KRS 224.450(5).***

SECTION 12. A NEW SECTION OF KRS CHAPTER 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

***(1) A person convicted of knowingly violating any provision of this Act or any administrative regulation adopted pursuant to this Act shall be guilty of a Class B misdemeanor.***

***(2) A person who is convicted of knowingly demanding or collecting a fee for the inspection of a vehicle other than the fees established pursuant to this Act shall be guilty of a Class A misdemeanor.***

***(3) A person convicted of knowingly making or issuing any imitation of a compliance certificate or exemption certificate shall be guilty of a Class D felony.***

***(4) A person convicted of willful improper issuance or use of an inspection certificate shall be guilty of a Class A misdemeanor.***

The Committee Substitute to **HB 796** is as follows:

**HB 796**, AN ACT relating to a vehicle emission control program.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

***As used in this Act unless the context clearly indicates otherwise:***

***(1) "Compliance certificate" means an official emission inspection certificate issued by the cabinet or a county, air pollution control district, contractor or fleet operator authorized by the cabinet, indicating that a vehicle has been tested in accordance with this Act and complies with all applicable emission standards;***

***(2) "Independent contractor" means any person, business firm, partnership or corporation with whom the cabinet or a fiscal court may negotiate an agreement providing for construction, equipment, maintenance, personnel, management, and operation of an official emission inspection station;***

***(3) "Control system" means equipment designed for installation or installed on a motor vehicle for the purpose of reducing the air contaminants emitted from the vehicle or a system or engine adjustment or modification which causes a reduction of air contaminants emitted from the vehicle;***

***(4) "Exemption certificate" means an official exemption certificate issued by the cabinet or a county, contractor or fleet operator authorized by the cabinet, indicating that a vehicle is exempt from certain requirements of this Act;***

***(5) "Inspection station" means an official vehicle emission inspection facility whether placed in a permanent structure or in a mobile unit for conveyance among various locations within this Commonwealth, to conduct emission inspections of vehicles required to be inspected pursuant to this Act;***

***(6) "Vehicle" means any automobile or truck registered in this Commonwealth having a combined manufacturer's weight of vehicle and maximum load to be carried of up to eighteen thousand (18,000)***

*pounds, which is equivalent to eight thousand one hundred eighty-two (8,182) kilograms, or less and used upon the public highways of the Commonwealth for the purpose of transporting persons or property; and*

*(7) "Vehicle emission control program" means a program developed by the cabinet pursuant to this Act which provides for the control of vehicle emissions of any air contaminant.*

SECTION 2. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) In the event a county fiscal court does not implement a program in accordance with Section 9 of this Act, the cabinet shall administer or provide for a comprehensive vehicle emission control program which may require the annual inspection of vehicles in counties designated by administrative regulation of the cabinet to be nonattainment for ozone, carbon monoxide or nitrogen dioxide if a program is necessary or prudent to meet federal air quality standards and if no United States Environmental Protection Agency approved program is being operated by an air pollution control district, county fiscal court, or combination of county fiscal courts.*

*(2) The cabinet shall adopt emission standards which may vary by model year, class of vehicle, engine type or size, and may provide for the exemption of certain classes of vehicles from the requirements of this Act.*

*(3) The cabinet shall adopt conditions for compliance certificates and exemption certificates.*

*(4) The cabinet may administer or provide for a program to train and certify mechanics in the maintenance of control systems and techniques of engine maintenance which affect vehicle emissions, and may charge a fee for the program.*

*(5) The cabinet may administer or provide for the issuance and revocation of certificates to qualified mechanics and may charge a fee for the certificates.*

*(6) The cabinet shall adopt procedures, including inspection schedules necessary to implement the comprehensive vehicle emission control program.*

*(7) The cabinet may promulgate administrative regulations necessary to administer this Act.*

SECTION 3. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially numbered or otherwise identified. Certificates shall be strictly accounted for by the issuing authority.*

*(2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption certificate issued pursuant to this Act. Vehicles with state or official registration routinely operating in these counties shall be inspected at least once within each twelve (12) month period following the original registration.*

SECTION 4. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet shall establish the fee required to be paid for an emission inspection. The fee may cover all costs of implementing this Act.*

*(2) The fee charged for issuance of a compliance certificate or an exemption certificate shall be collected with the motor vehicle registration renewal fee by the county clerk at the time and place of motor vehicle registration pursuant to KRS Chapter 186, unless an independent contractor is authorized pursuant to Section 7 of this Act to collect inspection fees.*

*(3) Except as provided by Sections 7 and 8 of this Act:*

*(a) The clerk of each county shall collect the emission inspection fee; and*

*(b) All money received from inspection fees by the county clerk shall be remitted quarterly to the cabinet, except for a sum of no more than twenty-five cents (25) per vehicle which the county clerk may retain.*

*(4) The cabinet shall promptly transmit all money collected pursuant to this Act to the State Treasurer who shall deposit it in the vehicle emission control fund account.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the "Vehicle Emission Control Fund," which shall consist of:*

*(a) Money appropriated by the General Assembly;*

*(b) All money remitted by county clerks which is collected for vehicle emissions inspections:*

*(c) All money remitted by county fiscal courts which have been delegated authority to implement a vehicle emission control program;*

*(d) Money received from private grants or donations; and*

*(e) Money received from the United States by grant or otherwise to assist the Commonwealth in any vehicle emission control program.*

*(f) Money received from independent contractors as required in subsection (3)(c) of Section 7 of this Act.*

*(2) The cabinet shall administer the vehicle emission control fund to achieve the purposes of this Act.*

*(3) Money in the vehicle emission control fund shall not revert to the general fund and shall be exempt from the provisions of KRS 45.230 relating to lapsing of appropriations.*

*(4) All purchases, capital outlay, and operating costs relating to the vehicle emission control program conducted pursuant to this Act shall be charged against the vehicle emission control fund.*

SECTION 6. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may prescribe, by administrative regulation, for vehicle emission control, standards for use of a fuel or fuel additive in a vehicle or vehicle engine the use of which fuel would damage or render ineffective a control system installed on the vehicle.*

*(2) The cabinet may prohibit, by administrative regulation, any person from removing, altering, or causing the removal or alteration of a control system to diminish its effectiveness.*

*(3) This section shall not apply to motor vehicles that are used exclusively for competition and are not operated on the public streets and highways.*

SECTION 7. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may enter into an agreement with one (1) or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance and operation of official vehicle emission inspection stations in the numbers and locations required to provide vehicle owners reasonably convenient access to inspection facilities.*

*(2) The cabinet shall be prohibited from entering into an agreement with any independent contractor who is engaged in the business of manufacturing, selling, maintaining or repairing vehicles and vehicle replacement or repair parts in the Commonwealth, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor.*

*(3) The agreement authorized by this section shall contain provisions relating to the following:*

*(a) That the Commonwealth shall not be required to purchase any asset or assume any liability if the agreement is not renewed;*

*(b) That the contractor is authorized to collect the inspection fee for a test in the amount fixed by the cabinet;*

*(c) That the Commonwealth shall be reimbursed by the contractor for not less than ten percent (10%) of the inspection fee, except for programs operated by air pollution control districts;*

*(d) That reports and documentation shall be submitted to the cabinet if required concerning the operation of the official vehicle emission inspection stations; and*

*(e) That the cabinet has discretion to investigate the operation of the official vehicle emission inspection stations as the conditions and circumstances of the operation may indicate, and that the cabinet may revoke the contract if it finds that the stations are not operated in accordance with this Act or that the contractor has failed or refused to submit records or documentation required by this Act.*

*(4) The agreement may contain any provisions deemed necessary by the cabinet for the administration or enforcement of this Act.*

SECTION 8. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) Any registered owner or lessee of a fleet of vehicles may apply to the cabinet for a permit to establish at his own expense a fleet inspection station. The cabinet shall not issue any fleet inspection station permit until it has found that the applicant:*

*(a) Maintains an established place of business or facility for the repair and maintenance of the applicant's fleet of vehicles;*

*(b) Has obtained machinery, tools and equipment approved by the cabinet and adequate to conduct the required emissions inspections;*

*(c) Employs properly trained personnel with which to perform the necessary labor; and*

*(d) Will keep complete records of all inspections performed and repairs made and will provide the information or data to the cabinet.*

*(2) An operator of a fleet inspection station holding a valid permit shall, upon filing an application in the manner and form prescribed by the cabinet, receive a sufficient number of certificate forms for each vehicle in the applicant's fleet. No inspection certificate shall be issued to any fleet vehicle until it has been inspected and found to comply with all the standards that the vehicle would be required to meet at any inspection station.*

*(3) No holder of a fleet inspection station permit shall inspect or certify any vehicle for which the permittee is not the registered owner or lessee.*

*(4) Vehicles owned by a licensed vehicle dealer and which are held for resale as a part of the dealer's business inventory shall be deemed a part of the dealer's vehicle fleet for purposes of this section.*

*(5) The cabinet shall investigate the operation of each fleet inspection station as the conditions and circumstances of the operation may indicate. The cabinet may require the holder of any fleet permit to submit documentation concerning the operation of the inspection station. The cabinet may revoke and require the surrender and forfeiture of any fleet inspection station permit and inspection certificate forms held by a permittee if it finds that the station is not operated in accordance with this Act or that the holder of the permit has failed or refused to submit records or documentation required by this Act.*

*(6) The holder of a fleet inspection station permit shall pay to the cabinet a fee in an amount to be established by regulation.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 224.450 to 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) A county fiscal court may apply to the cabinet for authority to operate a vehicle emission control program. The cabinet may delegate authority when it has found that the applicant:*

*(a) Has obtained approved machinery, tools and equipment approved by the cabinet and adequate to conduct the required emission inspections;*

*(b) Has provided for a sufficient number of facilities to ensure minimum waiting time for vehicles to be inspected;*

*(c) Employs properly trained personnel with whom to perform the necessary inspections;*

*(d) Has adopted minimum emission standards for vehicles at least as stringent as those adopted by the cabinet; and*

*(e) Agrees to provide information prescribed by the cabinet concerning the implementation, administration, and operation of the vehicle emission control program.*

*(2) Any county which has received authority to operate a vehicle emission control program may charge an inspection fee. There shall be established an emission inspection account in the county. Unless an independent contractor is authorized pursuant to Section 7 of this Act to collect inspection fees, the county clerk shall collect the fee at the time of registration renewal in the manner provided for cabinet programs. The inspection fees collected by the county clerk shall be immediately transferred to the county emission inspection account, except for a sum of no more than twenty-five cents (25) per vehicle which the county clerk may retain.*

*(3) A county which has received authority to operate a vehicle emission control program shall transmit to the cabinet's vehicle emission control fund two percent (2%) of the funds received from inspection fees or from the independent contractor authorized pursuant to Section 7 of this Act.*

*(4) The county may use the county's emission inspection fund to acquire any special equipment, tools, employees, material or facilities needed to adequately administer, investigate or enforce the provisions of this Act.*

*(5) The county may enter into a contract with the cabinet and receive state funds charged to the cabinet's vehicle emission control fund to start a vehicle emission control program.*

*(6) A county applying for delegation pursuant to this section may enter into a contract with one (1) or more independent contractors subject to the provisions of Section 7 of this Act to provide for construction, equipment, establishment, maintenance and operation of inspection stations for the purpose of obtaining delegation pursuant to this Act.*

*(7) If the cabinet determines, after a hearing with notice, that a delegated vehicle emission control program is not being administered in accordance with this Act, the delegation of authority may be revoked by order of the cabinet and all unexpended money, equipment and facilities acquired by the county with funds granted by the cabinet shall be transferred to the cabinet.*

SECTION 10. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*The cabinet may acquire in the name of the Commonwealth by purchase, donation, dedication or other lawful means any special equipment, tools, materials or facilities needed to adequately administer, investigate or enforce this Act.*

SECTION 11. A NEW SECTION OF KRS 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) The provisions of this Act shall not detract from the authority provided air pollution control districts in KRS Chapters 77 and 224.*

*(2) The authority in Section 3 is provided to air pollution control districts provided:*

*(a) The air pollution control district may function and exercise its powers pursuant to resolution or ordinance as provided in KRS Chapter 77; and*

*(b) The air pollution control district has been granted concurrent jurisdiction by the cabinet pursuant to KRS 224.450.*

*(3) Actions taken by an air pollution control district for violations of this Act shall be enforced in accordance with the provisions of KRS 224.450(5).*

SECTION 12. A NEW SECTION OF KRS CHAPTER 224.450 TO 224.510 IS CREATED TO READ AS FOLLOWS:

*(1) A person convicted of knowingly violating any provision of this Act or any administrative regulation adopted pursuant to this Act shall be guilty of a Class B misdemeanor.*

*(2) A person who is convicted of knowingly demanding or collecting a fee for the inspection of a vehicle other than the fees established pursuant to this Act shall be guilty of a Class A misdemeanor.*

*(3) A person convicted of knowingly making or issuing any imitation of a compliance certificate or exemption certificate shall be guilty of a Class D felony.*

*(4) A person convicted of willful improper issuance or use of an inspection certificate shall be guilty of a Class A misdemeanor.*

**SB 190.** AN ACT relating to fish and wildlife.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

*(1) No person or group of persons may deliberately cast the rays of a spotlight or other artificial light, with the intent to poach, into any field, pasture, woodlands, or forest, whether public or private, where wildlife or domestic livestock may reasonably be expected to be located. This section shall not apply to the rays of headlights of vehicles engaged in a normal course of travel, to employees or agents of the department while on official business, to peace officers in the line of duty, to those engaged in legitimate agricultural activities, or to anyone involved in activities legitimate to his business, occupation, or circumstances including lawful hunting activities.*

*(2) Any person who violates the provisions of this Act shall be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000).*

The Committee Amendment No. 1 to **SB 190** is as follows:

Amend printed copy of **SB 190** on page 1, lines 4 and 5, by deleting "***, with the intent to poach,***".

The Committee on State Government reported **HB 263** with Committee Substitute attached thereto, **HB 274**, **HB 514** with Committee Amendments attached thereto, **HB 694** with Committee Amendment attached thereto, **HB 752**, **HB 753** and **HCR 175** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 263**, AN ACT relating to economic development planning.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created Kentucky Horizons as an agency of state government.***

***(2) The mission of Kentucky Horizons shall be to develop strategic economic policies, which are implemented across all state institutions and programs, and to be Kentucky's originator, proponent, coordinator and overseer of state economic analyses and plans.***

***(3) In order to fulfill its mission as the originator, proponent, coordinator and overseer of economic analyses and plans, Kentucky Horizons shall:***

***(a) Be the central policy planning and oversight board for all economic development and tourism activities in Kentucky;***

***(b) Be the economic advisory board to the Governor, the Cabinet for Economic Development, all other executive departments, the General Assembly and the Judiciary. This function may include conducting quarterly reviews of the Kentucky and U.S. economies, receiving economic reports and assessments and analyzing the implications of such information on the state's financial condition;***

***(c) With the Cabinet for Economic Development and the Tourism Cabinet, act as policy developer and overseer to the Kentucky Development Finance Authority, the Kentucky Rural Economic Development Authority and the Commonwealth Venture Fund;***

***(d) Act as the central policy development board to any Kentucky agencies, authorities, departments and other entities of state government whose fundamental mission is the economic development of Kentucky;***

***(e) Review the state revenue forecast and official revenue estimates;***

***(f) Review long-term state expenditure patterns;***

***(g) Review the state's infrastructure and capital investment needs and advise the governor regarding needed changes and revisions;***

***(h) Provide financial analyses as requested by the Governor or the Legislative Research Commission; and***

***(i) In its capacity as Kentucky's central development policy planning and oversight board, collaborate with the executive and legislative branches, the business, agricultural and financial sectors, labor and management, educational institutions and local communities to strive to create within a developing Kentucky economy increased innovation, creativity, diversity and productivity which is greater than any one sector can achieve acting alone.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

***(1) Kentucky Horizons shall be composed of the following members:***

***1. The Governor or his designee;***

***2. The Lieutenant Governor or his designee;***

***3. The chairman of the Council on Higher Education;***

***4. The secretary of the Cabinet for Economic Development;***

***5. The executive secretary of the Kentucky AFL-CIO;***

***6. The chairman of the board of the Kentucky Chamber of Commerce;***

*7. The Commissioner of Agriculture or his designee;*

*8. The secretary of the Cabinet for Natural Resources and Environmental Protection or his designee;*

*9. The secretary of the Tourism Cabinet or his designee;*

*10. The secretary of the Finance and Administration Cabinet or his designee;*

*11. Twelve (12) persons from the private sector appointed by the Governor; and*

*12. The Speaker of the House of Representatives, the President Pro Tempore of the Senate, the chairman of the Economic Development and Tourism Committee of the House of Representatives and the chairman of the Economic Development, Tourism and Energy Committee of the Senate who shall serve on this board as ex officio members and in an advisory capacity only.*

*(2) The persons initially appointed to Kentucky Horizons by the Governor shall serve for a term of office as follows:*

*1. Three (3) members shall serve for a term of office of one (1) year;*

*2. Three (3) members shall serve for a term of office of two (2) years;*

*3. Three (3) members shall serve for a term of office of three (3) years; and*

*4. Three (3) members shall serve for a term of office of four (4) years.*

*All appointees to the board shall be selected for outstanding knowledge and leadership in their fields. Except as otherwise provided, appointed members shall serve for a term of four (4) years. No appointed member may serve more than two (2) consecutive full terms of office on Kentucky Horizons. Any vacancy in the appointed membership of Kentucky Horizons shall be filled for the unexpired term in the same manner as the original appointment.*

*(3) The Governor or his designee shall serve as co-chairman of Kentucky Horizons. The other co-chairman shall be elected annually from among the private sector members. A vice-chairman shall be elected annually from among all the members.*

*(4) Kentucky Horizons shall meet at least once each calendar quarter and at such other times upon the call of one (1) of the co-chairmen or at least seven (7) members of the board.*

*(5) Kentucky Horizons shall employ an executive director and necessary administrative support staff. The Cabinet for Economic Development shall provide administrative staff and other assistance to Kentucky Horizons to develop five-year statewide economic plans, and manage and support the economic information system and other programs developed by Kentucky Horizons.*

*(6) Pursuant to regulations promulgated by the Finance and Administration Cabinet, members shall be reimbursed only for actual and necessary travel expenses in performing their duties as members of Kentucky Horizons.*

*(7) In making appointments to the board of directors of Kentucky Horizons, appropriate consideration shall be given to representation upon the board by race, gender and geographical area.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) In fulfillment of its duty to oversee short-term and long-term strategic evaluation and analyses of the state's economy, Kentucky Horizons shall review and approve annually a five-year plan which shall guide the direction of future public and private actions, and make recommendations on the state's economy to the Governor and the chairmen of the standing committees on economic development of the House of Representatives and the Senate, as follows:*

*(a) Kentucky Horizons shall review, evaluate and oversee the implementation of the state's five-year economic development plan as developed by the Cabinet for Economic Development with the cooperation of Kentucky businesses, agriculture, financial institutions, universities, labor and the state executive and legislative branches. Proposed updates of the plan shall be submitted to Kentucky Horizons by the cabinet no later than September 1 of each year. Kentucky Horizons shall evaluate, revise if necessary, and approve a plan and updates as necessary. The completed plan shall be transmitted to the Governor and the General Assembly no later than December 1 of each year;*

*(b) The plan shall include:*

*1. An analysis of the current facts and emerging trends in the Kentucky economy over the next decade;*

*2. Recommendations for the targeting of scarce state resources by size and sector of economic activity and by geographical location within the state in order to enhance the state's potential comparative economic advantages and assist disadvantaged regions;*

*3. An evaluation of the effectiveness of state economic development and tourism policies and programs in meeting the goals of the state's economic plan, including but not limited to, size of enterprise, sector of economic activity and rotation within Kentucky, and a comparison with other states; the evluation shall also include, but not be limited to, an examination of quantifiable results of Kentucky Horizons' actions and plans; and*

*4. A listing in order of priority of recommendations for initiatives that will further the effective implementation of the state's economic development plan;*

*(2) Kentucky Horizons shall act as the advisory policy development board to the Cabinet for Economic Development. Board responsibilities include review and comment on the cabinet's annual business plan; coordination, support and advice on development of a complete economic information system which will support the five-year planning process. The economic information system shall be managed by the Cabinet for Economic Development;*

*(3) Kentucky Horizons shall conduct an ongoing review and critique of all major economic development and tourism projects and bonds which require a commitment of state funds in excess of five hundred thousand dollars ($500,000) and report its findings to the Governor and the Legislative Research Commission.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) After seven (7) years of operation, Kentucky Horizons shall evaluate the effectiveness of any state entity responsible for economic development and tourism. The evaluation shall include a review of objective measures of the results of programs and operations managed or created by each entity.*

*(2) Kentucky Horizons shall seek advice from the general public and from professional associations, academic groups and institutions and individuals with knowledge of and interest in economic development and planning.*

*(3) All state agencies shall cooperate with Kentucky Horizons and its administrative agency, the Cabinet for Economic Development, in providing information and other assistance as may be requested for the performance of Kentucky Horizons' duties.*

*(4) Kentucky Horizons shall utilize, seek to enhance and support the continuing economic analyses and information services provided by the public and private higher education institutions of this state.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) Kentucky Horizons shall prepare with the assistance of the Cabinet for Economic Development an annual report which shall include:*

*(a) A synopsis of the activities of the Kentucky Horizons during the previous fiscal year;*

*(b) The annual report, business plan, the five-year plan of the Cabinet for Economic Development; and*

*(c) A report of performance audits and evaluations conducted by Kentucky Horizons which shall include, but not be limited to, an examination of quantifiable results of Kentucky Horizons' actions and plans.*

*(2) The report shall be transmitted to the Governor, and the Legislative Research Commission thirty (30) days prior to the first day of each legislative session. The annual report shall account for ways in which the needs, mission and programs of Kentucky Horizons described in this Act have been carried out and the recommendations shall note what changes in the activities of Kentucky Horizons and the programs it oversees of state government are necessary to better address the mission described in this Act. Kentucky Horizons shall distribute its annual report by the means that will make it widely available to interested persons throughout this Commonwealth.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*Nothing in this Act shall interfere with the state planning functions of the Governor's cabinet, as outlined in KRS 147.070 to 147.120. However, Kentucky Horizons shall be the primary agency responsible for performing the planning functions outlined in this Act, and shall accordingly be allocated all state or federal planning funds dedicated to economic development and tourism planning, capital planning, and other functions*

***outlined in this Act. Any funds allocated to administer KRS sections which are repealed by this Act shall be transferred to Kentucky Horizons.***

Section 7. The provisions of Executive Order 89-58 pertaining to the Economic Roundtable and promulgated on January 13, 1989, shall be ratified only to the extent that they are included in this Act.

Section 8. The following KRS sections are repealed:

147B.100 Governor's financial policy council — Purpose — Members — Meetings — Reimbursement.

147B.110 Duties and functions.

The Committee Substitute to **HB 263** is as follows:

**HB 263,** AN ACT relating to economic development planning.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created Kentucky Horizons as an agency of state government which shall be assigned to the Cabinet for Economic Development for administrative purposes.***

***(2) The mission of Kentucky Horizons shall be to develop strategic long-range economic plans, which are implemented across all state institutions and programs, and to be Kentucky's proponent and coordinator of state economic analyses and plans.***

***(3) In order to fulfill its mission, Kentucky Horizons shall:***

***(a) Be the central strategic long-range planning body for all economic development and tourism activities;***

***(b) Be the economic advisory board to the Governor, the Cabinet for Economic Development, all other executive departments, the General Assembly and the Judiciary. This function may include conducting quarterly reviews of the Kentucky and U.S. economies, receiving economic reports and assessments from other agencies including, but not limited to, the Governor's Economic Roundtable as promulgated by Executive Order 89-58, and analyzing the implications of such information on the state's financial condition;***

***(c) Develop long-range plans in cooperation with other state agencies including, but not limited to, the Kentucky Development Finance Authority, the Kentucky Rural Economic Development Authority and the Commonwealth Venture Fund;***

***(d) Act as the central long-range strategic planning board to any Kentucky agencies, authorities, departments and other entities of state government whose fundamental mission is the economic development of Kentucky;***

***(e) Review long-term state expenditure patterns;***

***(f) Cooperate with and receive reports from any state agency designated to prepare state capital improvement plans. In the absence of such an agency, develop capital improvement plans as may be deemed necessary and proper;***

***(g) Provide financial analyses as requested by the Governor or the Legislative Research Commission; and***

***(h) In its capacity as Kentucky's economic development planning board, collaborate with the executive and legislative branches, area development districts, the business, agricultural and financial sectors, labor and management, educational institutions and local communities to strive to create within a developing Kentucky economy increased innovation, creativity, diversity and productivity which is greater than any one sector can achieve acting alone.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

***(1) The Kentucky Horizons Board shall be composed of the following members:***

***1. The Governor, or his designee;***

***2. The secretary of the Transportation Cabinet, or his designee;***

***3. The chairman of the Council on Higher Education, or his designee;***

*4. The secretary of the Cabinet for Economic Development;*

*5. The executive secretary of the Kentucky AFL-CIO, or his designee;*

*6. The chairman of the board of the Kentucky Chamber of Commerce, or his designee;*

*7. The Commissioner of Agriculture, or his designee;*

*8. The secretary of the Cabinet for Natural Resources and Environmental Protection, or his designee;*

*9. The secretary of the Tourism Cabinet, or his designee;*

*10. The secretary of the Finance and Administration Cabinet, or his designee;*

*11. The chairman of the board of the Kentucky Council of Area Development Districts, or his designee;*

*12. Eight (8) persons from the private sector appointed by the Governor; and*

*13. The chairman of the Economic Development and Tourism Committee of the House of Representatives and the chairman of the Economic Development, Tourism and Energy Committee of the Senate who shall serve on this board as ex officio members and in an advisory capacity only.*

*(2) The persons initially appointed to Kentucky Horizons Board by the Governor shall serve for a term of office as follows:*

*1. Two (2) members shall serve for a term of office of one (1) year;*

*2. Two (2) members shall serve for a term of office of two (2) years;*

*3. Two (2) members shall serve for a term of office of three (3) years; and*

*4. Two (2) members shall serve for a term of office of four (4) years.*

*All appointees to the board shall be selected for outstanding knowledge and leadership in their fields. Except as otherwise provided, appointed members shall serve for a term of four (4) years. No appointed member may serve more than two (2) consecutive full terms of office on Kentucky Horizons. Any vacancy in the appointed membership of Kentucky Horizons shall be filled for the unexpired term in the same manner as the original appointment.*

*(3) The Governor or his designee shall serve as chairman of the board and the secretary of the Cabinet for Economic Development shall serve as vice chairman. Another vice chairman shall be elected annually from among the private sector members. Upon the absence of the chairman, the secretary of the Cabinet for Economic Development shall serve as acting chairman.*

*(4) Kentucky Horizons shall meet at least once quarterly and at such other times upon the call of the chairman or the secretary of the Economic Development Cabinet or at least seven (7) members of the board.*

*(5) Kentucky Horizons Board shall employ an executive director and necessary administrative support staff whose duties, responsibilities, and qualifications shall be prescribed by the board. The Cabinet for Economic Development shall provide administrative assistance to Kentucky Horizons, and, as funds permit, assist with development of five-year statewide economic plans, and when developed, to manage and support a state economic information system and other programs that may be developed by Kentucky Horizons and approved according to law.*

*(6) Pursuant to regulations promulgated by the Finance and Administration Cabinet, members shall be reimbursed only for actual and necessary travel expenses in performing their duties as members of the board.*

*(7) In making private sector appointments to the board, appropriate consideration shall be given to representation upon the board by race, gender and geographical area.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) In fulfillment of its duty to oversee the long-range strategic planning, evaluation, and analyses of the state's economy, Kentucky Horizons shall review and approve annually a five-year plan which shall serve as a guide for future public actions, and make recommendations on the state's economy to the Governor and the chairmen of the standing Committees on Economic Development of the House of Representatives and the Senate, as follows:*

*(a) Kentucky Horizons shall review and evaluate the implementation of the state's five-year economic*

*development plan with the cooperation of Kentucky businesses, agriculture, financial institutions, universities, labor, and the state executive and legislative branches. Proposed updates of the plan shall be submitted to the board by the cabinet no later than September 1 of each year. The board shall evaluate, revise if necessary, and approve a plan and updates as necessary. The completed plan shall be transmitted to the Governor and the General Assembly no later than December 1 of each year;*

*(b) The plan shall include:*

*1. An analysis of the current facts and emerging trends in the Kentucky economy over the next decade;*

*2. Recommendations for the targeting of scarce state resources by size and sector of economic activity and by geographical location within the state in order to enhance the state's potential comparative economic advantages and assist disadvantaged regions;*

*3. An evaluation of the effectiveness of state economic development and tourism policies and programs in meeting the goals of the state's long-range economic plan, including but not limited to, size of enterprise, sector of economic activity within Kentucky, and a comparison with other states; the evaluation shall also include, but not be limited to, an examination of quantifiable results of Kentucky Horizons' actions and plans; and*

*4. A listing in order of priority of recommendations for initiatives that will further the effective implementation of the state's economic development plan;*

*(2) Kentucky Horizons shall act as the advisory planning board to the Cabinet for Economic Development and the Tourism Cabinet. Board responsibilities shall include the review and comment on plans prepared by each cabinet; coordination, support, and advice on development and funding of these plans, including funding assistance, and the development and funding of an economic information system to support the board's long-range planning process.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) After seven (7) years of operation, Kentucky Horizons shall evaluate the effectiveness of any state entity responsible for economic development and tourism. The evaluation shall include a review of objective measures of the results of programs and operations managed or created by each entity.*

*(2) Kentucky Horizons shall seek advice from the general public and from professional associations, academic groups and institutions and individuals with knowledge of and interest in economic development and planning.*

*(3) All state agencies shall cooperate with Kentucky Horizons and its administrative agency, the Cabinet for Economic Development, in providing information and other assistance as may be required for the performance of Kentucky Horizons' duties.*

*(4) Kentucky Horizons shall utilize, seek to enhance and support the continuing economic analyses and information services provided by the public and private higher education institutions of this state.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) Kentucky Horizons shall prepare with the assistance of the Cabinet for Economic Development an annual report which shall include:*

*(a) A synopsis of the activities of the Kentucky Horizons during the previous fiscal year; and*

*(b) A report of performance audits and evaluations conducted by Kentucky Horizons which shall include, but not be limited to, an examination of quantifiable results of Kentucky Horizons' actions and long-range plans.*

*(2) The report shall be transmitted to the Governor, and the Legislative Research Commission thirty (30) days prior to the first day of each legislative session. The annual report shall account for ways in which the needs, mission and programs of Kentucky Horizons described in this Act have been carried out and the recommendations shall note what changes in the activities of Kentucky Horizons and the programs of state government are necessary to better address the mission described in this Act. Kentucky Horizons shall distribute its annual report by the means that will make it widely available to interested persons throughout this Commonwealth.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) Nothing in this Act shall interfere with the state planning functions of the Governor's cabinet, as outlined in KRS 147.070 to 147.120. However, Kentucky Horizons shall be the primary agency responsible*

***for performing the long-range strategic economic planning functions outlined in this Act, and shall accordingly be allocated from the state planning fund as provided in KRS 147.110 and as appropriated and allocated thereto by the General Assembly, adequate funding to perform the functions and responsibilities as prescribed in this Act. Any funds allocated to administer KRS 147B.100 and 147B.110 which are repealed by this Act also shall be transferred to Kentucky Horizons.***

***(2) Nothing in this Act shall be interpreted as limiting Kentucky Horizons from receiving and expending funds from any other state, federal or private source.***

Section 7. When the provisions of Executive Order 89-58 pertaining to the Economic Roundtable and promulgated on January 13, 1989, are ratified by the General Assembly, the Economic Roundtable shall make available quarterly reports to Kentucky Horizons on the national and state economies, and also shall make available to Kentucky Horizons any other economic reports the board may request.

Section 8. The following KRS sections are repealed:

147B.100 Governor's financial policy council — Purpose — Members — Meetings — Reimbursement.

147B.110 Duties and functions.

**HB 274**, AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby confirms Executive Order 89-561 which reorganizes the Department for Mental Health and Mental Retardation Services within the Cabinet for Human Resources as follows:

(1) A Division of Administration and Financial Management is created.

(2) The Division of Institutional Care is abolished and its responsibilities transferred to the Division of Administration and Financial Management and to the Office of the Commissioner for Mental Health and Mental Retardation Services.

(3) The employee assistance function within the Office of the Commissioner is transferred to the Department of Personnel.

**HB 514**, AN ACT relating to the Kentucky National Guard and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 35.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "National Guard" means the Kentucky Army National Guard and the Kentucky Air National Guard;

(2) "Active militia" means a volunteer defense unit other than the National Guard;

(3) "Officer" means a commissioned officer, including a warrant officer;

(4) "Superior commissioned officer" means a commissioned officer superior in rank or command;

(5) "Enlisted person" means any person who is serving in an enlisted grade in any force of the National Guard or active militia;

(6) "***State active duty*** [~~Active state service~~]" means full-time military duty in the active service of the state under an order of the Governor as defined in subsection (4) of KRS 38.010, including travel to and from such duty;

(7) "Military court" means a court-martial, a court of inquiry, a provost court, or a military commission;

(8) "Military judge" means an official of general and special courts-martial detailed in accordance with KRS 35.125;

(9) "Subject person" means person subject to this chapter;

(10) "Code" means this chapter;

(11) "Commissioned officer" includes a commissioned warrant officer;

(12) "Commanding officer" includes only commissioned officers;

(13) "Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation;

(14) "Rank" means order of precedence among members of the National Guard or active militia;

(15) "Duty status" includes ***state*** active [~~state~~] duty and any other type of state military duty, including travel to and from such duty;

(16) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the National Guard or active militia;

(17) "Accuser" means a person who signs and swears to charges, any person who directs that charges normally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused;

(18) "Military" refers to any or all of the armed forces;

(19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command; and

(20) "Peace officer" as used in this chapter means any sheriff, deputy sheriff, constable, deputy constable, sworn police officer, sworn enforcement officer of the Kentucky state police or other duly authorized state law enforcement agency and other persons with similar authority to make arrests under the provisions of the Kentucky Revised Statutes.

Section 2. KRS 36.140 is amended to read as follows:

(1) Officers and enlisted men ordered into active field service pursuant to KRS 37.240 or into ***state active duty*** [~~active state service~~] as defined in KRS 38.010(4) as individuals shall be entitled to reimbursement out of the State Treasury for expense of transportation and for other expenses actually incurred pursuant to KRS 45.101 and the regulations promulgated thereunder, and, when government supplied quarters and mess facilities are not available to such officers and enlisted men without cost, they shall be entitled to reimbursement out of the State Treasury for subsistence pursuant to KRS 45.101.

(2) Nothing in this section shall be construed to prevent such officers and employees of state departments and agencies from receiving fifteen (15) days annual military leave with pay.

Section 3. KRS 38.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Kentucky National Guard" includes the Army National Guard and Air National Guard;

(2) "Active Army National Guard and active Air National Guard" includes those organizations, officers and enlisted personnel, both male and female, of the federally recognized Kentucky National Guard authorized to receive federal pay, arms and equipment;

(3) "Inactive Army National Guard and inactive Air National Guard" includes those organizations, officers and enlisted personnel, both male and female, of the Kentucky National Guard not entitled to receive federal pay, arms and equipment;

(4) "***State active duty*** [~~Active state service~~]" is:

(a) The ordering by the Governor of ***personnel or units of the Kentucky National Guard to perform any duty authorized by KRS 38.030(1)(a) and the ordering of the militia to "active state duty" pursuant to KRS Chapter 37*** [~~any unit or units of the Kentucky National Guard to enforce the laws of the Commonwealth; resist an actual or threatened invasion or insurrection; quell a riot or other domestic disturbance; or preserve and protect the rights, lives or property of citizens of the Commonwealth~~];

(b) Officers, warrant officers and enlisted personnel employed under orders of the Governor in making tours of inspection, mustering in or mustering out troops, making surveys of military property, sitting on courts-martial, summary courts, efficiency boards, courts of inquiry or boards of officers or performance of any other duty directed by the Governor or Adjutant General;

(c) The participation of any unit or units of the Kentucky National Guard in gunnery competition or other training or military exercise anywhere within or without the United States[~~;~~

~~(d) Members of the Kentucky National Guard when entitled to receive federal pay are not deemed to be on active state service~~].

(5) Words importing the masculine gender only shall extend to and be applied to females as well as males.

Section 4. KRS 38.030 is amended to read as follows:

(1) Units of the Kentucky National Guard may be ordered into ***state active duty*** [~~active state service~~] only by the Governor. Individual officers, warrant officers, and enlisted personnel may be ordered into ***state active duty*** [~~active state service~~] by order of the Governor. The Governor may direct the commanding officer of the troops ordered into ***state active duty*** [~~active state service~~] for the purpose of resisting invasion, suppressing rebellions, insurrections, riots or threats thereof; suppressing any active, unlawful or threatened violence to persons or property in this state; authorizing the arrest of all persons engaged in aiding or abetting therein; investigating any acts of treason, sabotage or attempted sabotage and to cause the arrest of such persons engaged therein or aiding and abetting; and/or protecting life and property in the event of the emergency or disaster. The Governor may by his order prescribe the duty to be performed by the troops thus called into active field service.

***(a) The Governor may order units and individual members of the Kentucky National Guard into state active duty for any of the following purposes:***

***1. Protecting lives and property;***

***2. Assisting in disaster relief or other humanitarian efforts;***

***3. Preventing or suppressing riot or civil disorder;***

***4. Enforcing the laws of the Commonwealth; or***

***5. Other similar purpose.***

***(b) In addition to ordering personnel and units to state active duty, the Governor may order other members of the Kentucky National Guard to participate in or perform duty in support of state active duty missions notwithstanding the fact that such personnel are then entitled to receive federal pay and allowances pursuant to Title 32 of the United States Code. Such personnel may be ordered to perform state active duty support missions either prior to, during or after the time that state active duty missions are planned or performed.***

***(c) Members of the National Guard who are ordered to perform duty as provided in subsection (1)(b) of this section while they are entitled to receive federal pay under Title 32 of the United States Code shall have all of the powers, immunities and benefits conferred by law upon persons ordered to state active duty except that they shall receive no additional pay for such duty and the provisions of KRS 38.235 shall not apply to them. The powers, immunities and benefits thus conferred upon such persons shall be in addition to, and not in place of, those powers, immunities and benefits provided under federal law.***

***(d) Notwithstanding the authority of the Governor to order him to state active duty for pay purposes as any other member of the National Guard, the Adjutant General shall be deemed to be on duty in support of state active duty missions throughout his tenure of office.***

***(e) Any member of the National Guard may, with his consent, be ordered to state active duty without pay.***

(2) The Governor may direct the commanding officer of such military forces thus ordered ***to state active duty*** [~~into service~~] to report to any ***civil officer, including but not limited to, judge, county judge/executive, mayor, sheriff, or head of law enforcement or other public agency in whose jurisdiction the state active duty mission is to be performed. The civil officer may advise the commanding officer regarding*** [~~of the following named civil officers of the judicial circuit, county, city or town: circuit judge, sheriff, county judge/executive or mayor; and such civil officers may direct~~] the specific ***objectives*** [~~object~~] to be accomplished by ***the*** [~~such~~] military force, but the tactical direction and disposition of the troops and the particular means to be employed to accomplish the ***mission*** [~~object~~] shall be left solely to the ***officer*** [~~officers~~] of the National Guard.

(3) Troops shall not be relieved from active field service except by order of the Governor.

Section 5. KRS 38.205 is amended to read as follows:

Except when in the service of the United States, officers and enlisted men, when employed in ***state active duty*** [~~active state service~~], beginning with the day they assemble at their armories or other designated places until the day they return thereto and have been properly relieved, inclusive, fractional parts of a day counting as a full day, shall receive pay at the same rate as though serving on active duty as a member of the armed forces of the United States, but the rate shall not be less than twelve (12) times the prevailing federal minimum hourly wage per day. [~~Members of the Kentucky National Guard may, however, with their consent, be ordered to active state service in a nonpay status.~~]

Section 6. KRS 38.235 is amended to read as follows:

(1) The Department of Military Affairs shall accept the provisions of KRS Chapter 342 for the benefit of members of the Kentucky National Guard while such members are on ***state active duty*** [~~active state service~~].

(2) The department may, in lieu of procuring additional extended insurance coverage, elect to avail itself of the provisions of KRS 342.340 relating to the direct payment of benefits, for the purpose of paying the benefits provided under subsection (1) of this section.

Section 7. KRS 38.420 is amended to read as follows:

Officers, warrant officers and enlisted men of the Kentucky National Guard shall, while on ***state active duty*** [~~active state service~~], have the same right to carry arms, and in the same manner as sheriffs and other peace officers.

Section 8. KRS 38.470 is amended to read as follows:

When the Kentucky National Guard or Kentucky active militia is called into ***state active duty*** [~~active state service~~] by the Governor for any purpose, requiring the service of members thereof who are students in any institution of learning in the state, no teacher, professor, principal or president of the institution shall discriminate against any such student by reason of his absence, but shall credit him with all academic work accomplished to the date of his absence. Students shall be given reasonable time to make up work missed as a result of a call to ***state active duty*** [~~active state service~~].

Section 9. KRS 38.480 is amended to read as follows:

(1) Officers, warrant officers, and enlisted men of the Kentucky National Guard or Kentucky active militia ordered into ***state active duty*** [~~active state service~~] by the Governor shall be deemed peace officers as defined in KRS 61.310 and 446.010 and shall have all the powers and immunities of peace officers and shall not be liable, civilly or criminally, for any act done by them in pursuance of duty in ***state active duty*** [~~active state service~~].

(2) No officer, warrant officer, or enlisted man of the Kentucky National Guard or Kentucky active militia shall be arrested except in case of a felony while going to, remaining at, or returning from a place where he is ordered to attend for ***state active duty*** [~~active state service~~].

Section 10. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, elected to office or employed by any county, airport board created pursuant to KRS Chapter 183 or city or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. In the event death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, [~~or~~] any auxiliary police officer appointed pursuant to KRS 95.445, or firefighter***, or member of the Kentucky National Guard performing duty pursuant to KRS 38.030*** whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ten thousand dollars ($10,000) to the surviving children; and

(b) Hold fifteen thousand dollars ($15,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until such child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3). The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate ***administrative*** [~~and adopt~~] regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty.

(4) The Justice Cabinet shall be authorized to promulgate ***administrative*** [~~and adopt~~] regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including but not limited to defining when a police officer has died in line of duty.

(5) ***The Adjutant General shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to members of the National Guard, including but not limited to, defining when a member of the National Guard has died in the line of state active duty.***

***(6)*** The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff***,*** [~~or~~] firefighter's***, or National Guard*** retirement or benefit fund established by the ***federal government or by any*** state, county, or any municipality.

***(7)***[~~(6)~~] Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 11. KRS 342.640 is amended to read as follows:

The following shall constitute employees subject to the provisions of this chapter, except as exempted under KRS 342.650:

(1) Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employees whether paid by the employer or employee, if employed with the knowledge, actual or constructive, of the employer;

(2) Every executive officer of a corporation;

(3) Every person in the service of the state or of any political subdivision or agency thereof, or of any county, city of any class, school district, drainage district, tax district, public or quasi-public corporation or other political entity, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties. Every person who is a member of a volunteer ambulance service, fire or police department shall be deemed for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly enrolled volunteer member or trainee of the civil defense corps of this state as established under KRS Chapter 39, shall be deemed for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky National Guard, while said person is on ***state active duty*** [~~active state service~~] as defined in KRS 38.010(4) shall be deemed for the purposes of this chapter to be in the employment of this state;

(4) Every person performing service in the course of the trade, business, profession or occupation of an employer at the time of the injury; and

(5) Subject to the provisions in subsection (4) of this section, every person regularly selling or distributing newspapers on the street or to customers at their homes or places of business. For the purposes of this chapter such a person shall be deemed an employee of an independent news agency for whom he is selling or distributing newspapers, or, in the absence of such independent agency, of each publisher whose newspapers he sells or distributes.

Section 12. Whereas personnel and units of the Kentucky National Guard are frequently ordered to plan and perform state active duty missions such as flood relief, tornado assistance, Kentucky Derby crowd control; and, whereas the need for personnel and units of the National Guard to perform state active duty missions has traditionally been greatest during the months April through June; and, whereas this Act provides vital clarification of the authorization for state active duty as well as other benefits, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 514** is as follows:

Amend printed copy of **HB 514** on page 11, line 21, by inserting after "***KRS 38.030***" the words "***or inactive duty for training***".

The Committee Amendment No. 2 to **HB 514** is as follows:

Amend printed copy of **HB 514** on page 1, line 19, by inserting after "duty" but before the semicolon, "***. Any member of the National Guard performing law enforcement duties while on state active duty shall be considered a law enforcement officer for purposes of all benefits provided to law enforcement officers under state or federal law***".

**HB 694,** AN ACT relating to airport zoning.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 183.861 is amended to read as follows:

There is hereby created and established within the cabinet, a commission to be known as the "Kentucky Airport Zoning Commission" which, notwithstanding the provisions of KRS Chapters 100 and 147, shall be empowered to issue such orders, ***permits,*** rules, and regulations pertaining to use of land within and around all publicly ***used*** [~~owned~~] airports within the state ***and to use the avigable air space within the state*** as will promote the public interest and protect and encourage the proper use of such airports and their facilities ***and the avigable air space of this state***.

Section 2. KRS 183.867 is amended to read as follows:

(1) The commission shall require that every public airport in the state file with it, from time to time, as required, maps showing the airport and area surrounding such airport used for approach or landing purposes. The commission shall thereafter designate on such maps, by reference to the regulations or standards promulgated by the federal aviation administration concerning the area required for the safe maneuvering approach and landing of aircraft, the area over which jurisdiction will be assumed for zoning purposes. The commission shall notify any local zoning bodies of the area so designated and may exercise jurisdiction of such area insofar as it pertains to the safe and proper maneuvering of aircraft and the safe and proper use of the airport involved. The local zoning body may retain jurisdiction of zoning in such areas as to all other matters.

(2) ***The commission shall exercise jurisdiction over the avigable air space of this state and any structures that penetrate into the avigable air space, notwithstanding any requirement to file a map pursuant to subsection (4) of this section.***

***(3)*** The commission may adopt such regulations pertaining to the zoning of areas over which jurisdiction is assumed as will provide for the proper and safe use of such area***,*** [~~and~~] airport***, and avigable air space***.

***(4)***[~~(3)~~] The commission shall maintain a public file in the offices of the department showing maps of each public airport within the state and the area around such airport over which it has assumed jurisdiction for zoning purposes and such shall constitute public notice of the restrictions and zoning applicable to such areas or airport. The commission shall also maintain a public file showing any regulations adopted pertaining to land uses in areas zoned and such shall constitute public notice of same.

The Committee Amendment No. 1 to **HB 694** is as follows:

Amend printed copy of **HB 694** on page 1, line 8, by deleting the word "***avigable***" and inserting the word "***navigable***" in lieu thereof; and

On page 1, line 11, by deleting the word "***avigable***" and inserting the word "***navigable***" in lieu thereof; and

On page 2, line 10, by deleting the word "***avigable***" and inserting the word "***navigable***" in lieu thereof; and

On page 2, line 11, by deleting the word "***avigable***" and inserting the word "***navigable***" in lieu thereof; and

On page 2, line 17, by deleting the word "***avigable***" and inserting the word "***navigable***" in lieu thereof.

**HB 752,** AN ACT relating to benefits for state employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the Department of Personnel may establish a state employee benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2). ***All moneys remaining in this fund at the end of the fiscal year,***

***and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.***

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any amount due over that contributed by the state or department, board or agency for coverage shall be paid by the employee.

(4) No contribution by the state or department, board or agency shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of such employee. Any expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the Department of Personnel may approve.

**HB 753**, AN ACT relating to benefits for state employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***(1) For purposes of this section, the following definitions shall apply:***

***(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the federal Internal Revenue Code;***

***(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, and including a federally funded time-limited employee;***

***(c) "Department" shall mean the Department of Personnel;***

***(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and***

***(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.***

***(2) As part of the employee benefits provided to state employees under KRS Chapter 18A, the department may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.***

***(3) Options available under the plan may include, but are not limited:***

***(a) Health care coverage;***

***(b) Health maintenance organization coverage;***

***(c) Catastrophic illness coverage;***

***(d) Dental insurance;***

***(e) Term life insurance-accidental, death or dismemberment;***

***(f) Vision insurance;***

***(g) Long term disability insurance;***

***(h) Long term medical care; and***

***(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the department determines to be in the best interests of state employees.***

***(4) Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction. The election shall be made in writing; and once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status which necessitates a revision of his benefit election.***

***(5) Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent such benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.***

**HCR 175,** A CONCURRENT RESOLUTION authorizing and directing the Legislative Research Commission's Interim Joint Committee on State Government to study the feasibility and necessity for federally funded time-limited, seasonal and temporary positions in the Executive Department.

WHEREAS, it was the intent of the Kentucky General Assembly in the late nineteen fifties when it enacted the state merit system to provide job security for state employees; and

WHEREAS, it was the intent of the Kentucky General Assembly to "hold the line" on hiring when it placed a cap on the number of state merit system employees; and

WHEREAS, it is the belief of many that various administrations have circumvented this legislative intent by increasing the numbers of federally funded time-limited, seasonal and temporary positions in the Executive Department;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Legislative Research Commission's Interim Joint Committee on State Government shall conduct a comprehensive study of the feasibility and necessity for federally funded time-limited, seasonal and temporary positions in the Executive Department.

Section 2. Legislative Research Commission staff services to be utilized in the conduct of this study are estimated to cost $10,000, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the commission. The study shall begin no later than October 1, 1990, and shall be completed no later than September 28, 1991.

The Committee on State Government reported **HB 275** with Committee Amendment attached thereto, **HB 277**, **HB 281**, **HB 282**, **HB 283** and **HB 284** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 275**, AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby confirms Executive Order 89-560 which reorganizes the Department for Health Services within the Cabinet for Human Resources as follows:

(1) Abolishes the Division of Radiation and Product Safety and transfers its responsibilities and functions to a newly created Division of Community Safety.

(2) Abolishes the Division of Food and Sanitation and transfers its responsibilities to the Division of Local Health and the Division of Community Safety.

(3) Renames the Division of Administrative Services the Division of Administration and Financial Management.

(4) Renames the Division of Health Policy and Resource Development the Division of Vital Records and Health Development.

The Committee Amendment No. 1 to **HB 275** is as follows:

Amend printed copy of **HB 275** on page 1, line 7, following the word "Safety" and before the period, by inserting "***which shall also be responsible for the emergency medical services program formerly operated by the Division of Health Policy and Resource Development***"; and

On page 1, line 9, following the word "its", by inserting "***food and sanitation program***"; and

On page 1, line 10, following the word "and", by inserting "***its milk control program responsibilities to***".

**HB 277,** AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 194.090 is amended to read as follows:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) There is hereby created, within the cabinet, a Citizens' Commission for Human Resources.

(a) The Citizens' Commission for Human Resources shall advise the Governor, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The Citizens' Commission for Human Resources shall also advise the secretary for human resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The Citizens' Commission for Human Resources shall be composed of no more than fifteen (15) members appointed by the Governor. The members of the Citizens' Commission for Human Resources shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the Cabinet for Human Resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The Governor shall appoint the chairman of the Citizens' Commission for Human Resources upon the recommendation of the secretary for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Citizens' Commission for Human Resources. The Citizens' Commission for Human Resources shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the Citizens' Commission for Human Resources or the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the Cabinet for Human Resources a Council for Health Services.

(a) The Council for Health Services shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for health services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Health Services shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide health services.

(b) The Council for Health Services shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Members of the Council for Health Services shall be chosen to broadly represent public interest groups concerned with health services, professionals involved in the delivery of health services, recipients of health services provided by the state, minority groups, and the general public. The Governor shall appoint the chairman of the Council for Health Services who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for health services shall be nonvoting ex officio members of the Council for Health Services, and the commissioner for health services shall be staff director for, and secretary to the Council for Health Services. The Council for Health Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for health services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the Cabinet for Human Resources a Council for Social Insurance.

(a) The Council for Social Insurance shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for social insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Insurance shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The Council for Social Insurance shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Insurance shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The Governor shall appoint the chairman of the Council for Social Insurance, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for social insurance shall be nonvoting ex officio members of the Council for Social Insurance, and the commissioner for social insurance shall be staff director for and secretary to the Council for Social Insurance. The Council for Social Insurance shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the Cabinet for Human Resources a Council for Social Services.

(a) The Council for Social Services shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for social services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Services shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The Council for Social Services shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Services shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The Governor shall appoint the chairman of the Council for Social Services, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for social services shall be nonvoting ex officio members of the Council for Social Services, and the commissioner for social services shall be staff director for, and secretary to, the Council for Social Services. The Council for Social Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social services. A majority of the appointed members shall constitute a quorum.

(5) There is hereby created within the Cabinet for Human Resources a ***Kentucky*** [~~state~~] Job Training Coordinating Council which for administrative and support purposes shall be attached to the Department for Employment Services.

(a) The council shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for employment services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.

(b) The council shall:

***1. Perform the functions assigned to it in the Job Training Partnership Act, 42 U.S.C. Section 1501, et. seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;***

***2. Plan, coordinate, monitor, and provide advice to the secretary for human resources and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and***

***3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor, the secretary for human resources, or the commissioner of the Department for Employment Services*** [~~review the operation of programs conducted in each service delivery area and the availability, responsiveness, and adequacy of state services, and shall prepare reports and make recommendations to the Governor to improve these programs. The council shall furthermore do all necessary to comply with Public Law No. 97-300, the job training partnership act of 1982, and it shall execute such other manpower and training responsibilities not enumerated in Public Law No. 97-300 as determined by the Governor, the secretary for human resources or the commissioner of the Department for Employment Services~~].

(c) The council shall consist of ***twenty (20)*** [~~at least twenty-five (25)~~] members who shall be appointed by the Governor and who shall serve for a term of ***three (3)*** [~~four (4)~~] years or until such time as a successor is appointed and qualified except that upon initial appointment ***six (6)*** [~~eight (8)~~] of the members shall serve for a term of one (1) year, ***six (6)*** [~~eight (8)~~] of the members shall serve for a term of two (2) years, and ***five (5)*** [~~nine (9)~~] of the members shall serve for a term of three (3) years. ***The secretary of the Cabinet for Human Resources, the Superintendent of Public Instruction and the secretary of the Cabinet for Economic Development shall serve as ex officio members.*** In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The commissioner of the Department for Employment Services or his designee shall serve as secretary of the council. The Department for Employment Services shall provide the council with professional, technical and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities ***in accordance with KRS 194.200*** [~~as provided by regulation~~].

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the commissioner of the Department for Employment Services ***in consultation with the chairman*** and notice of ***the*** [~~such~~] meetings shall be either in writing or by telephone. For the purpose of conducting business, ***a majority*** [~~one-half (1/2) of the membership~~], excluding [~~any~~] vacancies, shall constitute a quorum.

(6) There is hereby created within the Cabinet for Human Resources an Institute for Aging.

(a) The Institute for Aging shall advise the Citizens' Commission for Human Resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The Institute for Aging shall be primarily concerned with identifying special needs of the aged and advising the secretary for human resources on how the cabinet may integrate its various programs and services to yield the maximum possible benefit for the aged. The Institute for Aging shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The Institute for Aging shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Aging shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chairman of the Institute for Aging, who by virtue of his appointment shall also serve as one (1) of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Institute for Aging. The Institute for Aging shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(7) There is hereby created within the Cabinet for Human Resources an Institute for Children.

(a) The Institute for Children shall advise the Citizens' Commission for Human Resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The Institute for Children shall be primarily concerned with identifying the special needs of these clientele groups and advising the secretary on how the Cabinet for Human Resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The Institute for Children shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The Institute for Children shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Children shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The Governor shall appoint a chairman of the Institute for Children who by virtue of his appointment shall also serve as one (1) of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Institute for Children. The Institute for Children shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

Section 2. KRS 194.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the state of Kentucky all applicable state laws and all rules and regulations necessary in accordance with applicable state laws, to protect, develop and maintain the health, welfare, personal dignity, integrity and sufficiency of the individual citizens of the Commonwealth and necessary

to operate the programs and fulfill the responsibilities vested in the Cabinet for Human Resources. The secretary shall adopt, administer and enforce such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, the Council for Social Services, the Council for Health Services, or the Council for Social Insurance to review and make recommendations on contemplated administrative regulations. The appropriate citizens' council or councils shall be involved in the development of all administrative regulations issued under the authority of the cabinet. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary and the secretary shall not delegate this authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the office of the counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the Cabinet for Human Resources. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the Cabinet for Human Resources. The balance of ***the*** [~~said~~] account shall lapse to the general fund at the end of each biennium. Such fees shall not be charged for investigation of complaints.

Section 3. KRS 194.100 is amended to read as follows:

There shall be an annual joint conference of all members of the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, the Council for Social Services, the Council for Social Insurance, and the Council for Health Services. The secretary for human resources shall be chairman of the annual joint conference and shall utilize this conference to discuss and receive joint recommendations from all of the commissions, institutes and councils involved in the programs and services of the cabinet.

Section 4. KRS 194.140 is amended to read as follows:

***When*** [~~Whenever~~] the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, and the Council for Social Services are assigned a responsibility for qualifying the Commonwealth for federal programs with representation and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create from the membership of the citizens' councils special subcommittees within these citizens' councils which meet federal requirements.

Section 5. KRS 194.180 is amended to read as follows:

All rules, regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, the Council for Social Services, the Advisory Council for Medical Assistance, and the Comprehensive Health Planning Council, shall remain in effect as rules, regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

Section 6. KRS 194.190 is amended to read as follows:

The Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, the Council for Social Services, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

Section 7. KRS 194.200 is amended to read as follows:

The members of the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, and the Council for Social Services shall receive no compensation for their services, but shall be allowed the necessary and actual expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be held to be a public officer by reason of his membership on a council.

Section 8. KRS 194.210 is amended to read as follows:

***When*** [~~Whenever~~] the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, the Kentucky Manpower Commission, the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Services Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board, as they relate to the functions transferred in whole or in part by 1974 Acts ch. 74, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Commission, and the Kentucky Certificate of Need and Licensure Board, in accordance with 1974 Acts ch. 74, ***the*** [~~such~~] references or designations shall be deemed to refer to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the ***Kentucky*** [~~State~~] Job Training Coordinating Council, the Council for Social Services, the Advisory Council on Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board, or the cabinet for human resources, or the secretary for Human Resources, as may be appropriate.

Section 9. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the ***Kentucky*** [~~State~~] Job Training Coordinating Council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations and special populations to include women, the disadvantaged, the handicapped, individuals with limited English proficiency and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned the duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board for Vocational-Technical, Adult Education and Vocational Rehabilitation Services or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for Vocational-Technical, Adult Education and Vocational Rehabilitation Services and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for the handicapped; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services on the adequacy and effectiveness of the coordination that takes place between vocational education and the job training partnership act; and

(j) Advise the Governor, the State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services, ***Kentucky*** [~~State~~] Job Training Coordinating Council, the secretary of the Cabinet for Human Resources, and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council ***may*** [~~is authorized to~~] obtain the services of ***the*** [~~such~~] professional, technical and clerical personnel [~~as may be~~] necessary to carry out its functions and to contract for ***the*** [~~such~~] services [~~as may be~~] necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other State Board for Vocational-Technical Adult Education and Vocational Rehabilitation Services, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to federal grants. ***The*** [~~Such~~] funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the Education and Humanities Cabinet to act as its fiscal agent for purposes of disbursement, accounting and auditing.

Section 10. The General Assembly confirms Executive Reorganization Order 88-960 which renames the State Job Training Council, and provides for its reorganization and appointment of members, to the extent it is not otherwise confirmed by this Act.

HB 281, AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

***(1) There is established within the Finance and Administration Cabinet the Office of Risk Management. The office shall be attached to the office of the secretary of the Finance and Administration Cabinet for administrative purposes. The office shall be headed by an executive director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.***

***(2) The Office of Risk Management shall:***

***(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;***

***(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;***

***(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees, including, but not limited to, assisting and monitoring the development of a program of health care self-insurance for state employees as authorized under KRS 18A.2281 and 18A.2282;***

***(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;***

*(e) Develop financing techniques for risk protection; and*

*(f) Develop and implement other risk management, insurance and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity and property risks.*

*(3) Nothing in this Act shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Department of Personnel and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs and other self-insured programs with the Office of Risk Management.*

*(4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Office of Risk Management the technical advice and other assistance the Office of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the office as described in this Act.*

*(5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Office of Risk Management.*

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets [(]and their departments[)] and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Department of Education.

(a) Superintendent of Public Instruction.

(b) State Board of Education.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) Department for the Blind.

(b) Department of Education.

(c) Department for Libraries and Archives.

(d) Governor's Council on Vocational Education.

(e) Kentucky Industries for the Blind.

(f) Kentucky Educational Television.

(g) Kentucky Historical Society.

(h) Kentucky Teachers' Retirement System Board of Trustees.

(i) Kentucky School Building Authority.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications and Council Affairs.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management Services.

(c) Office of Historic Properties.

(d) ***Office of Risk Management.***

***(e)*** Department for Administration.

***(f)***[~~(e)~~] Department of Facilities Management.

***(g)***[~~(f)~~] Department of Information Systems.

***(h)***[~~(g)~~] State Property and Buildings Commission.

***(i)***[~~(h)~~] Kentucky Pollution Abatement Authority.

***(j)***[~~(i)~~] Kentucky Savings Bond Authority.

***(k)***[~~(j)~~] Deferred Compensation Systems.

***(l)***[~~(k)~~] Office of Equal Employment Opportunity Contract Compliance.

***(m)***[~~(l)~~] Capital Plaza Authority.

***(n)***[~~(m)~~] County Officials Compensation Board.

***(o)***[~~(n)~~] Financial Disclosure Review Commission.

***(p)***[~~(o)~~] Kentucky Employees Retirement Systems.

***(q)***[~~(p)~~] Commonwealth Credit Union.

***(r)***[~~(q)~~] State Investment Commission.

***(s)***[~~(r)~~] Kentucky Housing Corporation.

***(t)***[~~(s)~~] Governmental Services Center.

***(u)***[~~(t)~~] Kentucky Local Correctional Facilities Construction Authority.

***(v)***[~~(u)~~] Kentucky Turnpike Authority.

***(w)***[~~(v)~~] Historic Properties Advisory Commission.

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 3. The General Assembly confirms Executive Order 89-138 issued on February 6, 1989, to the extent it is not otherwise confirmed by this Act.

HB 282. AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management ***and Fiscal Affairs*** [~~Services~~], the Office of Revenue Estimating and Economic Analysis, and the Office of Historic Properties, each of which offices shall be headed by an executive director, the Department for Administration which shall be headed by a commissioner, and the Department for Facilities Management which shall be headed by a commissioner, each of whom shall be responsible to the secretary and appointed by the secretary upon the approval of the Governor. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into such offices, bureaus, divisions or other units as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 2. KRS 42.018 is amended to read as follows:

The Office of Management ***and Fiscal Affairs*** [~~Services~~] established by KRS 42.014 shall be responsible for the fiscal, personnel, and payroll functions of the cabinet.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets [~~(~~]and their departments[~~)~~] and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Department of Education.

(a) Superintendent of Public Instruction.

(b) State Board of Education.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) Department for the Blind.

(b) Department of Education.

(c) Department for Libraries and Archives.

(d) Governor's Council on Vocational Education.

(e) Kentucky Industries for the Blind.

(f) Kentucky Educational Television.

(g) Kentucky Historical Society.

(h) Kentucky Teachers' Retirement System Board of Trustees.

(i) Kentucky School Building Authority.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications and Council Affairs.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management ***and Fiscal Affairs*** [~~Services~~].

(c) Office of Historic Properties.

(d) Department for Administration.

(e) Department of Facilities Management.

(f) Department of Information Systems.

(g) State Property and Buildings Commission.

(h) Kentucky Pollution Abatement Authority.

(i) Kentucky Savings Bond Authority.

(j) Deferred Compensation Systems.

(k) Office of Equal Employment Opportunity Contract Compliance.

(l) Capital Plaza Authority.

(m) County Officials Compensation Board.

(n) Financial Disclosure Review Commission.

(o) Kentucky Employees Retirement Systems.

(p) Commonwealth Credit Union.

(q) State Investment Commission.

(r) Kentucky Housing Corporation.

(s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.

(v) Historic Properties Advisory Commission.

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 4. The General Assembly confirms Executive Order 89-479 relating to the reorganization of the Office of Management Services in the Finance and Administration Cabinet, issued May 17, 1989, to the extent it is not otherwise confirmed by this Act.

**HB 283,** AN ACT relating to the Kentucky Educational Savings Plan Trust.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 164A.310 is amended to read as follows:

There is hereby created an instrumentality of the Commonwealth to be known as the Kentucky Educational Savings Plan Trust*, **which shall be attached to the Finance and Administration Cabinet for administrative and reporting purposes***. The trust shall have the power and authority to:

(1) Sue and be sued;

(2) Make and enter into contracts necessary for the administration of the trust pursuant to KRS 164A.300 to 164A.380;

(3) Adopt a corporate seal and to change and amend it from time to time;

(4) Invest moneys within the trust, including the program fund and the endowment fund therein, in any investments determined by the board and the office for investment and debt management to be appropriate, notwithstanding any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the trust;

(5) Enter into agreements with any institution of higher education, the Commonwealth of Kentucky or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to KRS 164A.300 to 164A.380;

(6) Accept any grants, gifts, legislative appropriations and other moneys from the Commonwealth, any unit of federal, state or local government or any other person, firm, partnership or corporation for deposit to the endowment fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;

(7) Enter into participation agreements with participants;

(8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations and restrictions set forth in KRS 164A.300 to 164A.380;

(10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation within the provisions of KRS Chapter 18A;

(11) Make provision for the payment of costs of administration and operation of the trust; and

(12) Carry out the duties and obligations of the trust pursuant to KRS 164A.300 to 164A.380 and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the trust and KRS 164A.300 to 164A.380.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets [(]and their departments[)] and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Department of Education.

(a) Superintendent of Public Instruction.

(b) State Board of Education.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) Department for the Blind.

(b) Department of Education.

(c) Department for Libraries and Archives.

(d) Governor's Council on Vocational Education.

(e) Kentucky Industries for the Blind.

(f) Kentucky Educational Television.

(g) Kentucky Historical Society.

(h) Kentucky Teachers' Retirement System Board of Trustees.

(i) Kentucky School Building Authority.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications and Council Affairs.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management Services.

(c) Office of Historic Properties.

(d) Department for Administration.

(e) Department of Facilities Management.

(f) Department of Information Systems.

(g) State Property and Buildings Commission.

(h) Kentucky Pollution Abatement Authority.

(i) Kentucky Savings Bond Authority.

(j) Deferred Compensation Systems.

(k) Office of Equal Employment Opportunity Contract Compliance.

(l) Capital Plaza Authority.

(m) County Officials Compensation Board.

(n) Financial Disclosure Review Commission.

(o) Kentucky Employees Retirement Systems.

(p) Commonwealth Credit Union.

(q) State Investment Commission.

(r) Kentucky Housing Corporation.

(s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.

(v) Historic Properties Advisory Commission.

***(w) –Kentucky Educational Savings Plan Trust.***

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 3. The following KRS section is repealed:

164A.315 Office facilities, clerical and administrative support.

Section 4. The General Assembly confirms Executive Order 89-779 issued on August 11, 1988, to the extent it is not otherwise confirmed by this Act.

**HB 284**, AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby confirms Executive Order 89-564 by which the council affairs function of the Office for Communications and Council Affairs is transferred to the Office of Policy and Budget within the Cabinet for Human Resources and the Office of Communications and Council Affairs is renamed the Office of Communications.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Department of Education.

(a) Superintendent of Public Instruction.

(b) State Board of Education.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) Department for the Blind.

(b) Department of Education.

(c) Department for Libraries and Archives.

(d) Governor's Council on Vocational Education.

(e) Kentucky Industries for the Blind.

(f) Kentucky Educational Television.

(g) Kentucky Historical Society.

(h) Kentucky Teachers' Retirement System Board of Trustees.

(i) Kentucky School Building Authority.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications [~~and Council Affairs~~].

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management Services.

(c) Office of Historic Properties.

(d) Department for Administration.

(e) Department of Facilities Management.

(f) Department of Information Systems.

(g) State Property and Buildings Commission.

(h) Kentucky Pollution Abatement Authority.

(i) Kentucky Savings Bond Authority.

(j) Deferred Compensation Systems.

(k) Office of Equal Employment Opportunity Contract Compliance.

(l) Capital Plaza Authority.

(m) County Officials Compensation Board.

(n) Financial Disclosure Review Commission.

(o) Kentucky Employees Retirement Systems.

(p) Commonwealth Credit Union.

(q) State Investment Commission.

(r) Kentucky Housing Corporation.

(s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.

(v) Historic Properties Advisory Commission.

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

**HB 51**, Representatives Kerr, Sheehan; **HB 464**, Representatives Riner, Sheehan; **HB 474**, Representative Lile; **HB 704**, Representative Reinhardt.

Representative Gedling moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that his vote be changed from "yea" to "nay" on **HB 696**. Agreed.

Representative Keith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Keith moved that his vote be changed from "nay" to "yea" on **HB 653**. Agreed.

Representative Gedling moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that he be recorded as voting "yea" on **HB 474**. Agreed.

Representative Allen moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Allen moved that he be recorded as voting "yea" on **HB 113**. Agreed.

Representative Yates moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Yates moved that he be recorded as voting "yea" on **HB 450**, **HB 428**, **HB 598**, **HB 526**, **HB 688**, **HB 771**, **HB 718**, **HB 719**, **HB 51**, **HB 349** and **HB 464**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 113** and **HB 352**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 707**. Agreed.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 4 to **HB 700**, by Representative Cyrus:

Amend printed copy of **HB 700** on page 11, beginning on line 11, by deleting "Section 6" in its entirety.

Floor Amendment No. 1 to **HB 659**, by Representative Gregory:

Amend printed copy of **HB 659** on page 1, line 20, after the word "campers" by deleting the word "***and***" and inserting in lieu thereof "***,***".

On page 1, line 21, after the word "***boats***" by deleting the "***,***" and by inserting "***and utility trailers eight (8) feet or more in length used to haul***".

Floor Amendment No. 1 to **HB 715**, by Representative Curd:

Amend printed copy of **HB 715** on page 1, line 5, by deleting the word "***plan***" and inserting in lieu thereof "***preschool grant application***";

on page 1, line 13, after "*99-457*" by adding the following: "***, Education of the Handicapped Act, Part B,***"

on page 1, line 14, after the "." by adding the following: "***No additional centers shall be established unless the existing centers receive at least the same level of funding as in the 1988 fiscal year.***"

on page 1, lines 18 and 19, by deleting "***Department of Education***" and inserting in lieu thereof "***chief state school officer***"

Floor Amendment No. 1 to **SB 228**,by Representative Clarke:

Amend printed copy of **SB 228** on page 1, line 9, by deleting the words "***payable out of the State Treasury***"

Floor Amendment No. 1 to **HJR 173**, by Representative Richards:

Amend printed copy of **HJR 173** on page 1, line 7, following "incarceration" to add ", incidence and usage of drugs in confinement,".

Floor Amendment No. 1 to the Committee Substitute to **HB 542**, by Representative Northup:

Amend printed copy of HCS to **HB 542** on page 2, lines 5 and 6, by deleting the following words: "***, but not limited to,***";

And on page 2, line 22 and 23, by deleting the words: "***The cabinet may contract with public or***" and inserting in lieu thereof the following: "***Any program established shall be by contract with***".

Floor Amendment No. 1 to **HB 704**, by Representative Adkins:

Amend printed copy of **HB 704** on page 1, line 5,

By deleting the word "***six (6)***" and inserting in lieu thereof the word "***five (5)***";

And on page 1, line 8, by deleting the word "***six (6)***" and inserting in lieu thereof the word "***five (5)***";

And on page 2, line 2, by deleting the word "***six (6)***" and inserting in lieu thereof the word "***five (5)***";

And on page 2, line 8, by inserting after the words "***setting forth***" the words "***facility and care***" and by deleting the words "***of care***".

Floor Amendment No. 1 to **HB 783**, by Representative LeMaster:

Amend printed copy of **HB 783** on page 3, line 8, by deleting the word "***vehicle***"; and

On page 3, line 8, after "***plates***" by inserting "***of the uninsured vehicle***".

The Clerk announced the following meetings:

The Committee on State Government, 8:30 a.m., March 16, 1990.

The Committee on Elections and Constitutional Amendments, today, upon adjournment.

The Committee on Health and Welfare, March 15, 1990, upon adjournment.

The Committee on Education, tonight, 7:00 p.m., March 14, 1990, noon and upon adjournment; March 15, 1990, 10:00 a.m. and 7:00 p.m., March 16, 1990.

The Committee on Appropriations and Revenue, 9:00 a.m., March 14, 1990.

The Committee on Labor and Industry, 8:30 a.m., March 14, 1990.

The Committee on Counties and Special Districts, 8:15 a.m., March 14, 1990.

The Budget Review Subcommittee on Education, 12 noon, March 14, 1990.

## Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 14, 1990.

On the roll call the vote was yeas 76—Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Blevins, Brown, Burch, Butler Casebier, Castleman, L. Clark, P. Clark. Clarke, Crupper, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lewis, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, R. Smith, Todd, Turner, Walker, Worthington, Yates, Zimmerman. Nays 1—Curd.

The motion to adjourn was adopted.

## WEDNESDAY, MARCH 14, 1990

## FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representative Priddy.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 13, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 326**, **SB 332**, **SB 396**, **HB 285**, **HB 426**, **HB 456** and **HB 561**.

### Introduction of Bills and Resolutions

**HR 204**, by Representative White: A RESOLUTION honoring Kim Mayes for her outstanding scholastic achievements and excellent abilities in the sport of basketball.

A Free Conference Committee Report was filed on **HB 112**.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **SB 313**.

Cities: **SCR 105**.

Economic Development and Tourism: **SB 371**.

State Government: **SB 310**.

### Report of Committees

The Committee on Rules reported **SB 229**, **HB 659**, **SB 136**, **HB 278**, **HB 279**, **HB 280**, **HB 447**, **HB 521**, **HB 529**, **HB 576**, **HB 578**, **HB 588**, **HB 592**, **HB 648**, **HB 650**, **HB 682**, **HB 683**, **HB 699**, **HB 746**, **HB 762**, **HB 763**, **HB 830**, **HCR 50**, **HCR 158** and **HJR 174** have been posted for passage in Orders of the Day, March 15, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, March 15, 1990: **SB 94**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 612**, **HB 630**, **HB 669**, **HB 774**, **HB 780**, **SB 34**.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Transportation: **SB 206**.

### Report of Committees

The Committee on Counties and Special Districts reported **HB 660**, **SB 199** and **SB 274** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 660**, AN ACT relating to fees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

| | |
|---|---|
| Executing and returning process | *$15.00* [~~$10.00~~] |
| Serving an order of court and return | 3.00 |
| Summoning each witness | 2.00 |
| Summoning an appraiser or reviewer | 2.00 |
| Attending a surveyor, when ordered by a court, per deputy or sheriff assigned | 20.00 |
| Taking any bond that he is authorized or required to take in any action | 5.00 |

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

| | |
|---|---|
| Taking a recognizance of a witness | 3.00 |
| Levying an attachment | 5.00 |

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

| | |
|---|---|
| Summoning a garnishee | 3.00 |
| Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted | 8.00 |
| Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff | 10.00 |
| Serving an order or process of revivor | 3.00 |
| Executing a writ of possession against each tenant or defendant | 7.00 |

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

| | |
|---|---|
| Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses | 8.00 |

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

| | |
|---|---|
| Levying for a fee-bill | 3.00 |
| Serving a notice | 2.00 |
| Serving summons, warrants or process of arrest in cases of children born out of wedlock | 6.00 |
| Serving each order appointing surveyors of roads, to be paid out of the county levy | 5.00 |
| Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant | 5.00 |
| Like services in cases of private passways to be paid by the applicant | 5.00 |
| Executing each writ of habeas corpus, to be paid by the petitioner | 3.00 |
| All services under a writ issued under KRS 381.460 to 381.570 | 10.00 |

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 2. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy-five dollars ($75); however, there shall be no filing fee for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202B and 387. The filing fee shall be paid to the clerk at the time the case is filed.

(2) Additional fees shall be charged in circuit court civil cases as follows:

| | | |
|---|---|---|
| (a) | Filing a third-party complaint | ***$15.00*** [~~$10.00~~] |
| (b) | Preparing a certification | 1.00 |
| (c) | Providing a copy of a document (per page) | .25 |
| (d) | Issuing orders of attachment; executions; writ of possession after judgment | 10.00 |
| (e) | Issuing garnishments | 2.00 |

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk at the disposition of the action by the party against whom the costs have been assessed as follows:

| | | |
|---|---|---|
| (a) | For a jury of more than six (6) persons | $25.00 |
| (b) | For a jury of six (6) persons | 12.50 |

(5) The following fee shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

| | |
|---|---|
| Service of process (per process) | ***$15.00*** [~~$10.00~~] |

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 3. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be paid to the clerk at the time the case is filed and shall be thirty dollars ($30.00), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be fifteen dollars ($15.00);

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10.00);

(c) Where the case involves the appointment of guardians, conservators, and curators and is not related to a pending probate proceeding, the fee shall be ten dollars ($10.00) for each appointment;

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10.00);

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10.00);

(f) Where the case involves mental health proceedings under KRS Chapter 202A, 202B or 387, there shall be no fee except as provided in paragraph (c) of this subsection; and

| | | |
|---|---|---|
| (g) | Filing forcible detainer actions | $10.00. |

(2) Additional fees shall be charged in district court civil cases as follows:

| | | |
|---|---|---|
| (a) | Filing a third-party complaint | $10.00 |
| (b) | Preparing a certification | $ 1.00 |

| | | |
|---|---|---|
| (c) | Providing a copy of a document (per page) | $ .15 |
| (d) | Issuing orders of attachment; executions; writ of possession after judgment | $10.00 |
| (e) | Issuing garnishments | $ 2.00 |

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

For a jury of six (6) persons . . . . . . . . . . $12.50

(5) The following fee shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

Service of process (per process) . . . . . . . . . . ***$15.00***[~~$10.00~~]

(6) The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice prior to the publication of the notice.

(7) The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

**SB 199,** AN ACT relating to county police merit boards.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 78.455 is amended to read as follows:

In all cases provided for in KRS 78.445 and 78.450, the action of the chief or of the board shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, reduction or fine made by the chief, shall be subject to review by the board at the request of any officer or employee affected by KRS 78.400 to 78.460, and the board shall give notice and hold a public hearing. [~~with respect thereto, and in any case where,~~] After ***the*** [~~such~~] public hearing, ***the board shall retire in executive session to discuss the evidence introduced at the hearing and make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If*** a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, [~~then~~] the order of the chief may be set aside and revoked by the board and the board may impose ***the*** [~~such~~] penalty or punishment [~~as~~] it may deem necessary and appropriate, if any.

(2) (a) Every action in the nature of a dismissal, suspension, reduction or fine made by the board shall be final, except that any person aggrieved thereby may, within twenty (20) days after the rendition of ***the*** [~~such~~] action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the county police force merit board, and service shall be had on the chairman thereof. The appeal taken to the Circuit Court shall be docketed by the clerk [~~thereof~~] as a civil action and shall be tried anew, as if no action had been rendered by the board.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in civil action.

**SB 274,** AN ACT relating to audits.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 64.810 is amended to read as follows:

(1) ***(a)*** Any fiscal court, county clerk or sheriff may employ a certified public accountant to audit the books, accounts, and papers of the county or his office in lieu of the audit conducted by the State Auditor of Public Accounts required by KRS 43.070, if the Auditor of Public Accounts declines to perform the audit or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice.

***(b) In the case of a documented emergency requiring an immediate audit which the Auditor of Public Accounts cannot complete within the requested deadline, the Auditor of Public Accounts shall engage or authorize the fiscal court, county clerk, or sheriff to engage a certified public accountant to complete the emergency audit. A certified public accountant may be engaged to conduct an emergency audit only after guaranteeing in writing to the Auditor of Public Accounts that the audit and audit report will be finished within the deadline originally requested of the Auditor of Public Accounts. The fiscal court, county clerk, or sheriff, as the case may be, shall bear the full cost of any audit conducted pursuant to this paragraph. Audits conducted pursuant to this paragraph shall be subject to the provisions of subsections (4) and (5) of this section.***

(2) A fiscal court which has elected to employ a certified public accountant pursuant to subsection (1)***(a)*** of this section shall notify the State Auditor in writing by July 31 following the fiscal year to be audited of the name of the certified public accountant it has employed. The fiscal court shall bear the full cost of any audit conducted pursuant to this section. An elected official who has elected to employ a certified public accountant pursuant to subsection (1)***(a)*** of this section shall:

(a) Notify the fiscal court and the State Auditor in writing by January 30 following the calendar year to be audited of the name of the certified public accountant employed by said official to audit the books, accounts, and papers of his office; and

(b) Bear the cost of the audit from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office.

(3) Any contract with a certified public accountant entered into pursuant to ***subsection (1)(a) of*** this section shall specify the following:

(a) The audit of a county official shall be completed by August 1 following the calendar year being audited; and the audit of a county budget shall be completed by February 1 following the fiscal year being audited;

(b) The certified public accountant shall forward a copy of the fee officer audit report and management letters to the county official, fiscal court of the county and the Auditor of Public Accounts upon completion of the audit, and no later than August 1 following the calendar year being audited;

(c) The certified public accountant shall forward a copy of the county budget audit report and management letters to the fiscal court of the county and the Auditor of Public Accounts upon completion of the audit and no later than February 1 following the fiscal year being audited; and

(d) The Auditor of Public Accounts shall have the right to review the certified public accountant's work papers before and after the release of the audit.

(4) After preliminary review of the certified public accountant's work papers, should discrepancies be found, the Auditor of Public Accounts shall notify the fiscal court or fee official of the discrepancies. Should the certified public accountant not correct such discrepancies prior to the release of the audit, the Auditor's office may conduct its own audit to verify the findings of the certified public accountant's report. If such audit is conducted, the expenses to said county or county official, as directed by KRS 43.070(4) shall be construed as an allowable expense of office. If the audit conducted by the Auditor of Public Accounts discloses discrepancies in the audit by the certified public accountant, the findings of the Auditor of Public Accounts shall be deemed official for purposes of collection of money owed the county pursuant to KRS 64.820.

(5) No later than February 1 following the fiscal year being audited, or August 1 following the calendar year being audited, the fiscal court or county official shall submit the accountant's written report to the Governor, the General Assembly, the Attorney General, the State Librarian and county attorney of his county. In addition the fiscal court or the official shall send the report to the newspaper having the largest paid circulation in the county, and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

(6) This section shall not be construed as eliminating the requirement that the books, accounts, and papers of the above-named officials be audited yearly.

The Committee Title Amendment to **SB 274** is as follows:

Amend printed copy of **SB 274** by amending the title thereof to read "AN ACT relating to local government.".

The Committee Amendment No. 1 to **SB 274** is as follows:

Amend printed copy of **SB 274** on page 4, line 24, by adding thereafter the following:

"Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties ***or county sheriff's department,*** of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government***, a sheriff who receives less than the maximum salary allowed by the Constitution of Kentucky, or full time deputy sheriff appointed pursuant to KRS 70.030 and 64.345 or 64.530,*** who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police, any elected officer, sheriff, ***special*** deputy sheriff ***appointed pursuant to KRS 70.045,*** constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky law enforcement council.

Section 3. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the law enforcement foundation program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer a minimum annual salary of four thousand three hundred fifty dollars ($4,350);

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky law enforcement council, for employment of police officers on or after July 1, 1972; provided, however, that all police officers employed prior to July 1, 1972 shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky law enforcement council; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky law enforcement council;

(6) Requires compliance with all provisions of law applicable to local police, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the department of justice to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) ***With the exception of sheriffs' departments, where sheriffs and deputies may individually meet the requirements of this section,*** [~~Provided, however, that~~] no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the law enforcement foundation program fund unless the local police department actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the law enforcement foundation program fund until the local police department has substantially complied with subsections (6) and (7) of this section.

Section 4. KRS 15.460 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand five hundred dollars ($2,500) for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the county employes retirement system hazardous duty category. In the case of county employes retirement system membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or non-hazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on

the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

***(3)(a) Exclusive of the expense allowance provided by KRS 70.170, each qualified sheriff, who does not receive the maximum salary allowed by the Constitution of Kentucky, shall receive as much of the supplement, up to the maximum amount, that will not cause his compensation to exceed the maximum salary;***

***(b) Each sheriff shall forward necessary information to the fund, as needed, to enable the fund to make payments to him and his deputies.***

***(c) Nothing contained herein shall be construed to prevent qualified deputies from participating in the fund when the sheriff does not qualify for participation or when the sheriff chooses to not participate in the fund.***".

The Committee on Counties and Special Districts reported **SB 134, SB 186** and **SB 200** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**SB 134.** AN ACT relating to notaries.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 423.010 is amended to read as follows:

***(1)*** The Secretary of State may appoint as many notaries public as he deems necessary, who shall hold office for four (4) years. Any person desiring to be appointed a notary public shall make written application to the Secretary of State. The application shall be approved by the Circuit Judge, circuit clerk, county judge/executive, county clerk, justice of the peace or a member of the General Assembly of the county of the residence of the applicant. No officer shall charge or accept any fee for approving the application. A notary public ***shall*** [~~must~~] be eighteen (18) years of age, a resident of the county from which he makes his application, of good moral character and capable of discharging the duties imposed upon him by this chapter, and the endorsement of the officer approving the application shall so state. The Secretary of State, in his certificate of appointment to the applicant, ***shall*** [~~must~~] designate the limits within which the notary is to act. Before a notary acts, he ***shall*** [~~must~~] take an oath before the county judge/executive of his county that he will honestly and diligently discharge the duties of his office. He ***shall*** [~~must~~] in the same court give an obligation with good security for the proper discharge of the duties of his office. Every certificate of a notary public shall state the date of the expiration of his commission. The Secretary of State shall give to each notary appointed a certificate of his appointment under the seal of the Commonwealth of Kentucky in lieu of a commission heretofore required to be issued to ***the*** [~~said~~] notary by the Governor of Kentucky, and receive a fee of ten dollars ($10) for the certificate.

***(2) A county clerk shall have the powers of a notary public in the exercise of the official functions of the office of clerk within his county, and the official actions of the county clerk shall not require the witness or signature of a notary appointed pursuant to subsection (1) of this section.***

**SB 186.** AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates, it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535; and

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection.

***(e) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.***

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.

(7) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410, or any such policemen or fire fighter members employed on or prior to August 1, 1988 who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by social security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

**SB 200,** AN ACT relating to County Police Merit Boards.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 78.440 is amended to read as follows:

(1) Every county police force merit system board created hereunder shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, layoff, reinstatement, suspension, fine and removal of the officers and employees covered by KRS 78.400 to 78.460. No rule or regulation made, promulgated, or amended by any county police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments [~~thereto~~] by supplying a certified copy [~~thereof~~] to the county judge/executive, the fiscal court and the chief, and by posting a copy [~~thereof~~] conspicuously in the office or place where the headquarters of the county police is maintained. ***The*** [~~Said~~] rules and amendments [~~thereto~~] shall be published in the manner prescribed within three (3) days after the adoption thereof.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) 1. Physical, mental, educational, citizenship and age requirements for new employees and officers.

2. Physical, mental, educational, citizenship and age requirements for new employees and officers and seniority requirements for promotion from lower to higher rank or classification.

3. A grade A patrolman ***shall*** [~~must~~] have three (3) years of service as a grade A patrolman before he may be eligible for the promotion to the rank of sergeant. If there are fewer than fifty (50) police officers on the police force, the merit board may waive this service requirement.

(b) 1. Open competitive written, oral and physical tests to determine the relative fitness of all candidates and examinations for original appointment and for promotion.

2. Public notices of examinations provided in subparagraph 1 of paragraph (b) and subparagraph 2 of paragraph (a) of this subsection.

(c) Temporary appointments in case of emergency.

(d) Organization and meetings of the board.

(e) Procedure and conduct of public hearings.

(3) No county police force merit system board shall adopt a rule requiring the retirement of officers or employees prior to the first day of the month following the officer or employee's fifty-eighth (58th) birthday. This subsection shall not prohibit retirement prior to age fifty-eight (58) on a voluntary basis.

(4) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade and administer all written tests as required by the board. ***The*** [~~Said~~] chief examiner shall report to the board the results of all tests given by him and he shall be solely responsible to the board. The chief examiner shall select a panel of ***three (3)*** [~~four (4)~~] members to conduct an oral examination of the applicants for promotion. The panel shall consist of ***three (3)*** [~~two (2)~~] persons of a supervisory capacity [~~from the same classified service as the applicant and two (2) persons~~] from an outside agency or agencies in the same field ***and of the same rank to which the applicant is aspiring.*** The chief examiner shall compile the grades of all applicants in strict compliance with procedures and percentages as set out below and shall deliver, in a sealed envelope, the scores of all applicants for promotion to the chairman of the board. The chief examiner shall not reveal to anyone the results of said tests other than in the manner set forth herein. If there are fewer than fifty (50) applicants for testing, the merit board may waive the requirements of this subsection and substitute other appropriate testing methods as determined by the board, but no [~~such~~] testing method or the grading [~~thereof~~] shall depart from or be inconsistent with the procedures and percentages set out below which shall be strictly followed in determining an applicant's eligibility for promotion.

(5) Physical fitness for promotion ***shall be*** [~~is~~] presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(6) At least ninety (90) days' notice shall be given before the promotional examination is conducted.

(7) The grading of promotional tests shall be as follows: sixty percent (60%) for written examination; thirty percent (30%) for oral examination; one percent (1%) for each year in seniority in grade, not to exceed ten percent (10%). Seniority points shall be awarded for each year of service after five (5) full years of service. The results of the written and oral examinations shall be added to the seniority points available to each applicant in determining the applicant's final evaluated rating.

The Committee on Education reported **HB 814** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 814,** AN ACT relating to state government and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 151B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.***

***(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be organized into a Department for Adult and Technical Education, a Department for the Blind, and other departments, divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet.***

***(3) The Cabinet for Workforce Development shall consist of the following major organizational units:***

***(a) The Department for Adult and Technical Education, which is created by Section 2 of this Act;***

***(b) The Department for the Blind, established by KRS 163.470;***

***(c) The State Board for Adult and Technical Education, which is created by Section 17 of this Act;***

***(d) The Division for Client Assistance which is created by Section 43 of this Act;***

***(e) The Governor's Council on Vocational Education, established by KRS 163.086;***

***(f) The Governor's Commission on Literacy, established by Section 25 of this Act;***

*(g) The State Board for Proprietary Education, established by KRS 165A.340;*

*(h) The GED Foundation, established by Section 24 of this Act;*

*(i) The Kentucky Occupational Information Coordinating Committee established by Section 41 of this Act; and*

*(j) The Kentucky Job Training Coordinating Council, established by Section 42 of this Act.*

*(4) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees, and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The Department for Adult and Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. The State Board for Adult and Technical Education shall be attached to the department for administrative purposes.*

*(2) The chief executive officer of the department shall be the commissioner of the Department for Adult and Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor in accordance with KRS 12.050. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned herein.*

*(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of non-degree programs in post-secondary and vocational-technical education, programs and services in adult education and vocational rehabilitation, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools, state-operated area vocational education centers, state technical institutes, and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.*

*(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.*

*(5) All responsibilities for programs, staff, and operations at state-operated area vocational education centers and state vocational technical schools, existing as of July 1, 1990, shall be transferred from the Kentucky Department of Education to the Department for Adult and Technical Education. The area vocational education centers shall be operated in compliance with program standards established by the State Board for Elementary and Secondary Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the State Board for Elementary and Secondary Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education. The cost of operating area vocational education centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.*

*(6) As of July 1, 1990, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made from the Department of Education to the Department for Adult and Technical Education. Appropriate personnel records shall be transferred from the Kentucky Department of Personnel. These transfers shall be made in order to implement the provisions of this section and action taken pursuant thereto.*

*(7) The Department for Adult and Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Adult and Technical Education.*

*(8) The Department for Adult and Technical Education shall be the education agency solely designated*

*for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education, vocational rehabilitation, and adult education. The department shall involve representatives from all eligible recipient categories in the development of such plans.*

*(9) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching and rehabilitation specialities. Such agreements and compensation shall be approved by the Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter 45. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.*

*(10) The commissioner shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of adult, technical, vocational education, and vocational rehabilitation.*

*(11) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*The Department for Adult and Technical Education shall be divided according to the following organizational structure:*

*(1) The commissioner of the Department for Adult and Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education. The deputy commissioner shall also directly supervise the Office of Technical Education and the Office of the Kentucky Tech System, which are created in subsections (2) and (3) of this section.*

*(2) There is hereby created an Office of Technical Education within the Department for Adult and Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Adult and Technical Education pursuant to KRS 12.050. The office shall be composed of Divisions of Planning and Evaluation, Industrial Training and Development, and Instructional Support.*

*(3) There is hereby created an Office of the Kentucky Tech System within the Department for Adult and Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Adult and Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated vocational technical schools and area centers known as the Kentucky Tech System. The office shall be composed of Divisions of School Operations, Post-Secondary Schools, Area Centers, an Ombudsman and an assistant for budget analysis.*

*(4) There is hereby created an Office of Administrative Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Financial Management, Personnel Services, Support Services, Facilities Management, and Public Information.*

*(5) There is hereby created an Office of Vocational Rehabilitation within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head with experience in vocational rehabilitation and supervision to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Field Services, Program Development, Support Services, and the Carl D. Perkins Rehabilitation Center.*

*(6) There is hereby created an Office of Adult Education Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Adult Basic Education and Workplace Skill Enhancement.*

*(7) There is hereby created an Office of Legal Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head pursuant to KRS 12.050 to supervise the duties of the office, which shall be attached for administrative purposes to the office of the commissioner of the Department for Adult and Technical Education.*

*(8) The commissioner of the Department for Adult and Technical Education, with the approval of the*

***secretary of the Cabinet for Workforce Development, shall establish the organizational branches below division level and arrange the branches within the organizational structure of the Department for Adult and Technical Education as set forth in subsections (4) to (7) of this section to provide required program and administrative services and assure effective execution of the department's responsibilities.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*As used in this chapter, unless the context indicates otherwise:*

*(1) "Appointing authority" means the commissioner for the Department for Adult and Technical Education or any person authorized by the commissioner to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing and signed by both the commissioner and his designee.*

*(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of Section 5(4)(i) of this Act.*

*(3) "Board" means the State Board for Adult and Technical Education created by Section 17 of this Act.*

*(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Adult and Technical Education are subject to personnel administration under this chapter.*

*(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.*

*(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.*

*(7) "Commissioner" means the commissioner for the Department for Adult and Technical Education.*

*(8) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.*

*(9) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.*

*(10) "Department" means the Department for Adult and Technical Education as provided by Section 2 of this Act.*

*(11) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Adult and Technical Education requiring certification or its equivalent.*

*(12) "Employee" means a person regularly employed in a position in the Department for Adult and Technical Education for which compensation is on a full-time or part-time basis.*

*(13) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Department for Adult and Technical Education shall be subject to personnel administration under KRS Chapter 151B.*

*(14) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an attorney employed by the Department for Adult and Technical Education.*

*(15) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.*

*(16) "Initial probation" means the one-year period following initial appointment of certified and equivalent employees under Section 12 of this Act which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.*

*(17) "Limited status" means employment that is renewable on an annual basis.*

*(18) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, or other disciplinary actions.*

*(19) "Position" means employment in the department involving duties requiring the services of one (1) person.*

*(20) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.*

*(21) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.*

*(22) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.*

*(23) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Adult and Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of Section 14 of this Act.*

*(24) "Region" means a grouping of counties as defined in respective state plans for vocational education and for vocational rehabilitation.*

*(25) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.*

*(26) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.*

*(27) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.*

*(28) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.*

*(29) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position, as well as any assistant or secretary attached to the position, who shall be exempt from the state classified service under KRS Chapter 18A and who is employed in the Department for Adult and Technical Education under KRS Chapter 151B.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) Effective July 1, 1990, all existing staff in the field offices and the state-operated vocational schools and rehabilitation centers and appropriate central office personnel from the Kentucky Department of Education shall be transferred to the Department for Adult and Technical Education. Those individuals with merit status shall be transferred to the department. Those employees who are on probation shall be transferred but shall be subject to completion of the probationary period. Annual, compensatory, and sick leave accrued as of July 1, 1990, shall be transferred with the employees.*

*(2) The State Board for Adult and Technical Education shall adopt and establish by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult and Technical Education central office, state-operated vocational facilities, vocational rehabilitation facilities, and regional staffs. The regulations shall not become effective until October 1, 1990. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A.*

*(3) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult and Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.*

*(4) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:*

*(a) Establishment and abolishment of positions;*

*(b) Applications;*

*(c) Certification;*

*(d) Classification and compensation plans;*

*(e) Incentive programs;*

*(f) Selection of employees;*

*(g) Types of appointments;*

*(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting and special leaves of absence;*

*(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;*

*(j) Extent and duration of the Kentucky Tech System school term, use of school days, and extended employment;*

*(k) Employee evaluations;*

*(l) Programs to improve the work effectiveness of employees including staff development;*

*(m) Demotion;*

*(n) Dismissal;*

*(o) Layoffs;*

*(p) Suspensions and other disciplinary measures;*

*(q) Probationary periods, limited employment status, and continuing employment status;*

*(r) Promotion;*

*(s) Transfer;*

*(t) Appeals; and*

*(u) Employee grievances and complaints.*

*(5) (a) Administrative regulations promulgated by the board shall comply with the provisions of this Act and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.*

*(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.*

*(c) No administrative body, other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.*

*(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult and Technical Education.*

*(6) The commissioner for adult and technical education shall be the appointing authority with respect to all personnel actions. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.*

*(7) The board shall adopt other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:*

*(a) The procedures to be utilized by the board in the conduct of hearings;*

*(b) Discharge, as provided by this section;*

*(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of Section 9 of this Act, for the manner of notification of the employee of the discipline and right of appeal;*

*(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;*

*(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities and rehabilitation centers, field offices and central office in the Department for Adult and Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor. The annual percentage increment under the salary schedule shall be at least equal to that provided for other state employees;*

*(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;*

*(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and*

*(h) Such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.*

*(8) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of Section 5 to Section 16 of this Act, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make such investigation as may be requested by the General Assembly or the Governor and to report thereon.*

*(9) The board shall adopt administrative regulations for a due process hearing and appeal system for aggrieved certified or equivalent employees.*

*(10) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.*

*(11) The board may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, or to a single member of the board acting as a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final decision or determination, based upon the evidence submitted.*

*(12) The board shall promulgate regulations governing the unclassified service including the preparation and maintenance of a salary schedule and other regulations authorized by this chapter.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) All certified, equivalent, and unclassified employees in the Department for Adult and Technical Education shall be provided the same health insurance coverage as all other state government employees provided in KRS 18A.225.*

*(2) All certified, equivalent, and unclassified employees in the Department for Adult and Technical Education are eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265.*

*(3) Employees under the jurisdiction of the Department for Adult and Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent staff hired by the Department for Adult and Technical Education shall be placed in the Kentucky Teachers' Retirement System.*

*(4) All certified, equivalent, and unclassified employees of the Department for Adult and Technical Education shall be provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 through 18A.215.*

*(5) All reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 by employees of the department in the performance of their official duties shall be reimbursed; no part of the reimbursement shall be included in or accounted as a part of their salaries.*

*(6) All certified, equivalent, and unclassified employees of the Department for Adult and Technical Education are ensured equal employment opportunity regardless of race, color, religion, national origin, handicap, sex, or age.*

*(7) All employees of the Department for Adult and Technical Education shall be given those holidays and rights granted state employees pursuant to KRS 18A.190.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The records of the Department for Adult and Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.*

*(2) (a) A personnel file shall be maintained by the department for each employee. The file maintained by the department shall be the official personnel file for the employee.*

*(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.*

*(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.*

*(3) Upon written request, an employee shall have the right to examine his personnel file. An employee may comment in writing on any item in the file. Such comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.*

*(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*Except as provided by the provisions of this chapter, the commissioner for adult and technical education may refuse to consider an applicant, for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove the person already appointed if:*

*(1) It is found that the applicant did not maintain certification or that certification has been revoked for the position;*

*(2) The person is unable to perform the duties of the position;*

*(3) The applicant made a false statement of material fact in the application;*

*(4) The application was not submitted correctly or within the prescribed time limits;*

*(5) The applicant has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;*

*(6) The applicant or employee has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;*

*(7) The applicant has previously been dismissed from a position in the department for cause or has resigned while charges for dismissal for cause of which the employee had knowledge were pending; or*

*(8) The applicant or employee has otherwise willfully violated the provisions of this chapter.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Department for Adult and Technical Education.*

*(2) Employees with continuing status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.*

*(3) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:*

*(a) The specific reasons for dismissal including:*

*1. The statutory or regulatory violation;*

*2. The specific action or activity on which the intent to dismiss is based;*

*3. The date, time and place of such action or activity; and*

*4. The name of the parties involved; and*

*(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or his designee.*

*(4) The department shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner for adult and technical education or his designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:*

*(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and*

*(b) The time limits and procedures to be followed by all parties in pretermination hearings.*

*(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or his designee.*

*(6) The appearance shall be scheduled six (6) working days after receipt of an employee's request to appear before the commissioner or his designee, excluding the day the employee's request is received.*

*(7) No later than five (5) working days after the employee appears before the commissioner or his designee, excluding the day of the appearance, the commissioner or his designee shall:*

*(a) Determine whether to dismiss the employee or to alter, modify or rescind the intent to dismiss; and*

*(b) Notify the employee in writing of the decision.*

*(8) If the commissioner or his designee determines that the employee shall be dismissed, the employee shall be notified in writing of:*

*(a) The effective date of dismissal or other penalization;*

*(b) The specific reason for such action, including:*

*1. The statutory or regulatory violation;*

*2. The specific action or activity on which the dismissal is based;*

*3. The date, time, and place of the action or activities; and*

*4. The names of the parties involved; and*

*(c) That the employee may appeal such dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.*

*(9) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:*

*(a) The demotion or suspension;*

*(b) The effective date of the demotion or suspension;*

*(c) The specific reason for such action including:*

*1. The statutory or regulatory violation;*

*2. The specific action or activity on which the demotion or suspension is based;*

*3. The date, time, and place of the action or activity; and*

*4. The name of the parties involved; and*

*(d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.*

*(10) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged or impeded. If the board determines that the records related to the employee and that the right to inspect or copy such records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.*

*(11) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, handicap, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, handicap, or age in accordance with KRS Chapter 344.*

*(12) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The department shall be responsible for the distribution of the forms.*

*(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer or other penalization, or notice of any other action an employee may appeal under the provisions of this section.*

*(c) Upon receipt of the appeal by the board, the commissioner shall be notified and the board shall schedule a hearing within the time limits prescribed by this section.*

*(13) All notices from the board shall be in writing. Notices shall be written so as to be understood by non-attorneys.*

*(14) (a) The appealing employee and the commissioner whose action is appealed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts.*

*(b) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section.*

*(c) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal such denial under the provisions of this section.*

*(d) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by such investigations and such information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon such information.*

*(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts, and information contained in the record.*

*(15) At the hearing of appeals, technical rules of evidence shall not apply. Upon its own motion or upon request of a party, the board may require the production by a party, an employee, or the department, of documents, records, and other material relevant to the appeal.*

*(16) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:*

*(a) Employ class action procedures; or*

*(b) Conduct test representative cases.*

*(17) A board member or hearing officer shall neither initiate, participate in, nor consider ex parte communications concerning a pending or impending proceeding before the board, except as specifically authorized by administrative regulation of the board in the conduct of a prehearing mediation and settlement procedure formally established by the board under KRS Chapter 13A. Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.*

*(18) An appeal to the board may be heard by the full board or one (1) or more of the following: a board member, its general counsel, or any of its hearing officers hired by personal service contract.*

*(19) The board shall review the record of the evidence presented, the finding of fact, and recommendations.*

*(20) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex, age, or handicap, the commissioner shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.*

*(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;*

*(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and*

*(d) In all other cases, the board shall rescind the action taken or otherwise grant such other relief to which the employee is entitled.*

*(21) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.*

*(22) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition of the appeal.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) Any final order of the board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of a certified, equivalent, or unclassified employee may be appealed either by the employee or by the appointing authority.*

*(2) The party aggrieved may, within thirty (30) days after the entry of the final order resulting in dissatisfaction, appeal that order by filing a petition with the clerk of the Franklin Circuit Court. The petition shall state completely the grounds upon which the review is sought and shall specify the alleged errors in the board's conclusion and order. The appellant shall furnish a copy of the petition to the opposing party and the board. Summons shall be issued by the circuit court clerk upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. Service on the board shall be had by serving the Attorney General or any assistant attorney general. The board shall within thirty (30) days after service of the summons file an attested copy of the order with the circuit court clerk, and of all the steps taken by the board relative to the attested order. If either party requests a transcript of the evidence, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days.*

*(3) The board, the employee, and the appointing authority shall be necessary parties to appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires. If the appeal is from an order upholding the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the employee.*

*(4) The case shall be set by the court for as early a day as possible for a hearing, and shall in all respects be expedited.*

*(5) No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:*

*(a) The board acted without or in excess of its power;*

*(b) The order appealed from was procured by fraud or misconduct;*

*(c) Substantial evidence supports the order appealed from; or*

*(d) The board's decision is supported by law.*

*(6) The court shall enter judgment affirming, modifying, or setting aside the order or, in its discretion, remanding the case to the board for proceedings in conformity with the directions of the court.*

*(7) Any party may appeal from the Circuit Court to the Court of Appeals in accordance with the Rules of Civil Procedure.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of Section 10 of this Act, the board shall forward a certified copy of the order to the Department for Adult and Technical Education, which shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.*

*(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.*

*(c) All other deductions shall be deducted as required by law or by other state regulation.*

*(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set off or deduction, except for set off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.*

*(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) All certified and equivalent employees shall serve a one-year probationary period for renewal of limited status. An employee may be separated from the position or reduced in class during this initial probationary period and shall not have a right to appeal except as provided in Section 9 of this Act. If the employee is separated from the position, notice in writing shall be received at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. Unless the commissioner notifies the employee of separation prior to the end of the initial probationary period, the employee shall be eligible for renewable limited status. Limited status employees are subject to reemployment on an annual basis.*

*(2) After completion of the initial probationary period, the individual shall be considered on limited status until successful completion of the fourth year, at which time the employee may be placed on continuing status.*

*(3) An employee who has been assigned continuing status may not be demoted, disciplined, or dismissed without cause except as provided by provisions in this chapter.*

*(4) An employee with continuing status who has been promoted shall serve a probationary period of one (1) year in the new position. During the period of promotional probation, the employee shall retain the rights and privileges granted by the provisions of this chapter to continuing status employees.*

*(5) During the promotional probationary period, the employee with continuing status may be reverted at the discretion of the appointing authority to a position in the class formerly held.*

*(6) A continuing status employee who has been laid off may return to a position with continuing status if an appropriate position is available.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) By October 1, 1990, the State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult and technical education and a committee composed of equal numbers of teachers, counselors, and administrators.*

*(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.*

*(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.*

*(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.*

*(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.*

*(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.*

*(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, provided the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.*

*(5) Teachers and administrators in the state-operated schools shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:*

*(a) School or classroom management, as appropriate;*

*(b) Job knowledge and skills;*

*(c) Instructional management;*

*(d) Employee conduct; and*

*(e) Professional responsibility.*

*(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:*

*(a) Job knowledge and skills;*

*(b) Quality of work;*

*(c) Employee conduct; and*

*(d) Professional responsibility.*

*(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the State Department for Adult and Technical Education.*

*(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of such evaluation by the evaluator.*

*(b) Within five (5) working days of such reconsideration, an employee may:*

*1. Submit a written response to any evaluation which shall be attached to the evaluation; and*

*2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.*

*(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:*

*1. Obtained written statements from both the employee and the evaluator; or*

*2. Met with the employee and the evaluator; and*

*3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.*

*(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the Kentucky Tech System, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner who shall make a final ruling. For other employees in the Department for Adult and Technical Education, this appeal would go to the appropriate office head and then to the commissioner.*

*(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:*

*(a) Demoted to a position commensurate with abilities; or*

*(b) Terminated.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.*

*(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The department shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.*

*(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.*

*(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.*

*(5) For a period of three (3) years, laid-off employees shall be considered before any applicant except another laid-off employee with more seniority who is already on the list.*

*(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:*

*(a) The laid-off employee notifies the department in writing that he no longer wishes to be considered for a position on the list;*

*(b) Two (2) written offers of appointment are declined, such offers to be for a position of the same classification and salary, and located in the same region, as the position from which laid off;*

*(c) Without good cause, the laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;*

*(d) The laid-off employee cannot be located by postal authorities at the last address provided; or*

*(e) The laid-off employee has willfully violated the provisions of this chapter.*

*(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.*

*(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of Section 9 of this Act.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) A layoff of an employee with continuing status in the department due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.*

*(2) Prior to the notification of layoff and prior to the layoff of an employee, the department shall prepare a lay-off plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the commissioner, the employee shall be notified of the pending layoff, and of:*

*(a) The reason for the layoff;*

*(b) The procedures established by the provisions of Section 14 of this Act, and this section for the layoff of employees; and*

*(c) The rights granted employees subject to layoff and to laid-off employees.*

*(3) (a) An employee subject to layoff shall be considered for a vacant position within the department of the same pay grade, level of duties and responsibilities for which the employee is qualified.*

*(b) If a vacancy does not exist, the employee shall be considered for any vacant position within the department for which qualifications are held.*

*(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations, ethnic origin, sex, handicap, or age.*

*(2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.*

*(3) No certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee.*

*(4) No certified or equivalent employee shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise the right as a citizen privately to express an opinion and to cast a vote. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, Department of Adult and Technical Education which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership. The members of the previous State Board for Adult, Vocational Education and Vocational Rehabilitation shall comprise the original members of the State Board for Adult and Technical Education and shall serve in such capacity for the remainder of their terms.*

*(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.*

*(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.*

*(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.*

*(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.*

*(6) The board shall have the authority to enter into agreements with other agencies in order to carry out services under its jurisdiction.*

*(7) The board shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs.*

*(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.*

*(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The Kentucky State Board for Adult and Technical Education is recognized to be a public body corporate and politic, and agency and instrumentality of the Commonwealth in the performance of essential governmental functions.*

*(2) For the benefit of programs under its control and supervision, the board may implement the provisions of any act of Congress appropriating and apportioning funds to the state, receive funds appropriated by the Kentucky General Assembly, provide for the proper apportionment and disbursement of those funds in accordance with state or federal laws, and accept and provide for the administration of any gifts, donations, or devises.*

*(3) (a) The board may expend funds necessary for errors and omissions, insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.*

*(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.*

*(c) Nothing in this section shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the board or any of its respective officers, agents, or employees.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*For meetings of the State Board for Adult and Technical Education, a majority of the voting members shall constitute a quorum for the transaction of business. The board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The office of the board shall be at the seat of government in the Department for Adult and Technical Education and shall be provided by the state. Members of the board shall receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and shall be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the board.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*The State Board for Adult and Technical Education shall have the management and control of state-operated vocational schools, rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult education programs and services.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

***Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on Higher Education for the issuance of associate, baccalaureate, or graduate degrees. The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees. Joint programming and articulation of vocational-technical education programs with associate degree programs shall be pursued when feasible. No public institution of higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the State Board for Adult and Technical Education. The State Board for Adult and Technical Education, with approval of the Council on Higher Education, may contract with public institutions of higher education for the operation of specific programs and projects.***

SECTION 22. KRS 156.253 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) The ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] may enter into agreement to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45.360 and 45.700 to 45.720 when awarded on the basis of a detailed training plan approved by the ***commissioner of the Department for Adult and Technical Education*** [~~Superintendent of Public Instruction~~]. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] may approve authorization for the Department ***for Adult and Technical*** [~~of~~] Education to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

SECTION 23. KRS 156.485 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5.00) fee may be assessed by the State Board for [~~vocational-technical,~~] Adult ***and Technical*** Education [~~and vocational rehabilitation services~~] for the issuance of a duplicate GED high school equivalency certificate. All fees collected for duplicate certificates shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;

(c) Staff shall be employed and trained by the Department ***for Adult and Technical*** [~~of~~] Education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED, high school equivalency examination; and

(d) Essay readers will be assigned to the Division of Adult ***Basic*** Education to score essays daily.

SECTION 24. KRS 156.486 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby established a nonprofit foundation to be known as the "GED Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the ***State Board for Adult and Technical Education*** [~~appropriate board~~] with responsibility for adult education programs based on recommendations from business, industry, labor, education and interested citizens. Staff assistance for the board of trustees shall be provided by the agency with the responsibility for administering the adult education program.

***(4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.***

SECTION 25. KRS 158.790 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) The Governor's Commission on Literacy is hereby established and is attached to the office of the secretary of the [~~education and humanities~~] Cabinet ***for Workforce Development***.

(2) The members of the Commission on Literacy shall be appointed by the Governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult literacy programs.

(3) Members shall be appointed for a term of four (4) years or until their successors are appointed and qualified, and shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employees. Members may be reappointed to the commission. In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which the member has been appointed.

(4) The duties of the Commission on Literacy shall be to:

(a) Formulate a statewide strategy and program plan for adult literacy;

(b) Review and recommend grants to public and private groups to support literacy programs;

(c) Review and evaluate literacy programs and report findings and recommendations to the Governor, the Legislative Research Commission, and appropriate cabinet and department heads;

(d) Provide a public information and education program to promote literacy;

(e) Enroll the support of business and industry for literacy programs;

(f) Perform such other functions as may be assigned by the Governor;

(g) Employ an executive director and other necessary personnel within the limits of funds made available; and

(h) Conduct research projects or make studies into and publish reports on the extent of illiteracy in Kentucky.

SECTION 26. KRS 158.795 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

As an agency of the [~~education and humanities~~] Cabinet ***for Workforce Development***, the Governor's Commission on Literacy shall administer a statewide adult literacy program. Subject to the availability of resources, services shall be provided in every county for the operation of adult literacy programs.

SECTION 27. KRS 163.020 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

This state accepts and agrees to comply with all the provisions of the acts of Congress of the United States approved February 23, 1917, and all subsequent acts relating to vocational education [~~as defined herein~~], the purpose of which is to provide training, develop skills, abilities, understandings, attitudes, work habits, and appreciation, and to impart knowledge and information needed by workers to enter into and make progress in their chosen vocations. These training opportunities ***shall*** [~~should~~] be provided for the young people who are enrolled in the regular day schools and, also, for out-of-school youth and adults, both employed and unemployed, who are in need of and can profit by vocational training.

SECTION 28. KRS 163.030 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~] is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the acts of Congress accepted by ***Section 27 of this Act*** [~~KRS 163.020~~], and is given all the necessary power and authority in administering vocational education and carrying out the provisions of the acts relating thereto.

SECTION 29. KRS 163.070 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by ***Section 27 of this Act*** [~~KRS 163.020~~], and he shall collect the money and pay it out upon the order of the State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~].

SECTION 30. KRS 163.085 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education ***may*** [~~and vocational rehabilitation services is authorized to~~] purchase, lease, or erect one (1) or more buildings to be used as state vocational schools at such sites and serving such areas of the state as, in the discretion of the board, will best meet the vocational education needs of the Commonwealth. Such facilities for vocational education shall be operated in accordance with policies of the board and in accordance with the state plan for vocational education.

SECTION 31. KRS 163.087 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

Tuition and fees for secondary pupils enrolled in the state vocational-technical schools and area vocational education centers shall be free to all residents of Kentucky. The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~] shall fix the rate of tuition and fees for post secondary pupils and adults who are enrolled in the state operated vocational-technical schools and area vocational education centers. The state board shall fix the rate of tuition and fees and the conditions on which post secondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of post secondary pupils and adults as may be incurred.

SECTION 32. KRS 163.088 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The ***commissioner of the Department for Adult and Technical Education may*** [~~superintendent of public instruction is authorized to~~] provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the Department ***for Adult and Technical*** [~~of~~] Education in vocational schools ***and centers.*** If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

SECTION 33. KRS 163.089 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) The ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] is authorized to provide medical and accident insurance for students enrolled in the state vocational-technical schools and area vocational education centers. The Department ***for Adult and Technical*** [~~of~~] Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state vocational-technical schools and area vocational education centers. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board ***for Adult and Technical*** [~~of~~] Education, upon the recommendation of the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~], shall adopt

administrative regulations to implement the medical and accident insurance program. The State Board ***for Adult and Technical*** [~~of~~] Education may fix the rate of fees for all secondary and post-secondary students and adults, the provisions of ***Section 31 of this Act*** [~~KRS 163.087~~] with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board ***for Adult and Technical*** [~~of~~] Education.

### SECTION 34. KRS 163.110 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

In enacting ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~] it is the intention of the General Assembly of Kentucky to provide for and improve the vocational rehabilitation of citizens of the Commonwealth of Kentucky with physical and mental handicaps in order that they may increase their social and economic well-being and the productive capacity of the Commonwealth and nation.

### SECTION 35. KRS 163.120 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The ***commissioner of the Department for Adult and Technical Education shall*** [~~superintendent of public instruction is hereby authorized to~~] establish within the ***Cabinet for Workforce Development*** [~~department of education~~] a State Vocational Rehabilitation Agency. This agency shall have such powers and duties as contained in ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~] and such other functions as may be established by administrative regulation of the State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~].

### SECTION 36. KRS 163.130 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B TO READ AS FOLLOWS:

***Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any individual with a physical or mental handicap:***

***(1) Who maintains a domicile in the Commonwealth at the time of filing his application therefor, and whose vocational rehabilitation the state vocational rehabilitation agency determines after full investigation can be satisfactorily achieved; or***

***(2) Who is eligible therefor under the terms of an agreement with another state or with the federal government.***

### SECTION 37. KRS 163.140 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~], upon recommendation of the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~], shall prescribe rules and regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to ***Section 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~] to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

### SECTION 38. KRS 163.160 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B TO READ AS FOLLOWS:

***This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved June 2, 1920 (41 stat. 735) relating to vocational rehabilitation and all subsequent acts pertaining to state and federal vocational rehabilitation programs enacted prior to March 1, 1990, when such acts apply to joint state and federally funded vocational rehabilitation programs. The Governor of the Commonwealth may, by executive order, accept such Acts of Congress enacted subsequent to March 1, 1990, as may be deemed desirable and necessary.***

### SECTION 39. KRS 163.170 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for vocational rehabilitation purposes upon certification by the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~].

SECTION 40. KRS 163.180 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The ***commissioner of the Department for Adult and Technical Education may,*** [~~superintendent of public instruction is hereby authorized and empowered~~ ~~(~~]with approval of the State Board for ***Adult and Technical*** [~~occupational~~] Education[~~)~~ ~~to~~] accept and use gifts made by will or otherwise for carrying out the purposes of ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~]. Gifts made under such conditions as in the judgment of the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] are proper and consistent with the provisions of ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~] may be so accepted and shall be held, invested, reinvested, and used in accordance with the provisions of ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~].

SECTION 41. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

***(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Cabinet for Workforce Development.***

***(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky career information system.***

***(3) The committee shall do all things necessary to comply with Public Law No. 98-524, the Carl D. Perkins Vocational Education Act; Public Law No. 97-300, the Job Training Partnership Act; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.***

***(4) The objectives of the committee shall include, but shall not be limited to the following:***

***(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;***

***(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;***

***(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;***

***(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;***

***(e) To develop, implement, and operate a Kentucky career information system for use by counselors, students, the unemployed, and others in the career decision making process;***

***(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;***

***(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and***

***(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.***

***(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:***

***(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;***

***(b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;***

*(c) The commissioner of the Department for Existing Business and Industry, Cabinet for Economic Development;*

*(d) The executive director of the Bluegrass State Skills Corporation;*

*(e) The executive director of the Governor's Council on Vocational Education;*

*(f) The office head for the Office of Vocational Rehabilitation;*

*(g) The office head for the Office of Vocational Education;*

*(h) The office head for the Office of Adult Education;*

*(i) The chancellor of the University of Kentucky Community College System;*

*(j) A representative from the Kentucky Council on Higher Education;*

*(k) A representative from the Kentucky Chamber of Commerce; and*

*(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.*

*(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.*

*(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.*

*(8) The committee shall be attached to the Cabinet for Workforce Development.*

*(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.*

SECTION 42. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.*

*(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for human resources, the secretary for economic development, the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.*

*(b) The council shall:*

*1. Perform the functions assigned to it in the Job Training Partnership Act, 42 U.S.C. Section 1501, et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;*

*2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and*

*3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor or the secretary for workforce development.*

*(c) The council shall consist of twenty (20) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult and Technical Education and the secretary of the Cabinet for Economic Development shall serve as*

ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

***(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.***

***(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.***

SECTION 43. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created a Division for Client Assistance which is assigned for administrative purposes to the office of the secretary of the Cabinet for Workforce Development. The Division for Client Assistance shall be headed by a director who shall be appointed by the secretary of the Cabinet for Workforce Development with the approval of the Governor pursuant to KRS 12.050. The director shall report to the secretary of the Cabinet for Workforce Development and shall be responsible for managing the activities and personnel of the Division for Client Assistance. The cabinet shall hire such personnel as deemed necessary to carry out the function and responsibilities of this office.***

***(2) The Division for Client Assistance shall have such authority as may be necessary to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of handicapped individuals who are receiving treatment, services or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the Cabinet, on behalf of the Division for Client Assistance, may contract with other state agencies to obtain necessary legal or other professional services.***

***(3) The Division for Client Assistance shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in Public Law 98-221.***

Section 44. KRS 156.010 is amended to read as follows:

(1) The Department of Education shall consist of the Superintendent of Public Instruction who shall be the chief executive officer of the department, the organizational structure of the department as set forth in this section, ***and*** the State Board for Elementary and Secondary Education[~~, and the state board for vocational-technical, adult education and vocational rehabilitation services~~].

(2) The Superintendent of Public Instruction shall appoint a deputy superintendent for elementary and secondary education, who shall directly supervise an office of instruction, headed by an office head and composed of divisions of accreditation, teacher education and certification, curriculum and staff development, compensatory education, support services, ***community eduction,*** and student services; and an office of education for exceptional children, headed by an office head and composed of divisions of categorical programs, support services, coordinated programs, the Kentucky School for the Blind, [~~and~~] the Kentucky School for the Deaf, ***and an Office of Secondary Vocational Education composed of Divisions of Program Services, Staff Development, and Support Services.***

(3) [~~The Superintendent of Public Instruction shall appoint a deputy superintendent for vocational-technical, adult education and vocational rehabilitation services, who shall directly supervise an office of vocational education, headed by an office head and composed of divisions of program services, staff development, support services, and school services; an office of vocational rehabilitation, headed by an office head and composed of divisions of field services, program development, support services, and the Carl D. Perkins comprehensive rehabilitation center; and an office of adult and community education, headed by an office head and composed of divisions of adult basic education, community education, and adult special projects.~~

~~(4)~~] The Superintendent of Public Instruction shall appoint a deputy superintendent for research, who shall directly supervise an office of research and planning, headed by an office head and composed of divisions of planning, research, evaluation, and computer services; and an office of communication services, headed by an office head and composed of divisions of media services, recognition and special events, public information, and printing services. The superintendent shall also appoint a deputy superintendent for administration, who shall directly supervise an office of school administration and finance, headed by an office head and composed of divisions of buildings and grounds, pupil transportation, pupil attendance, school district finance, textbook services, surplus property, school food services, and insurance services; and an office of internal administration, headed by an office head and composed of divisions of purchasing, accounting, budget analysis, [~~facilities management,~~] personnel services, and equal education opportunity. Directly attached and responsible to the Superintendent of Public Instruction also shall be an office of legal services headed by an office head, an assistant who shall be secretary to the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], a chief executive assistant to the superintendent, and an ombudsman responsible for coordination and referral of correspondence from the public as it relates to departmental services and functions.

*(4)*[~~(5)~~] The Superintendent of Public Instruction shall establish the organizational units below the division level, and arrange the units within the organizational structure of the Department of Education as set forth in subsections (1) to *(3)*[~~(4)~~] of this section to provide required program and administrative services and assure effective execution of the department's responsibilities. The superintendent shall further, and as appropriate, abolish or assign, within the organizational structure of the Department of Education established by subsections (1) to *(3)*[~~(4)~~] of this section, those assistant office head positions and principal assistant positions within the department not specifically mentioned in this section but existing as of July 1, 1988.

*(5)*[~~(6)~~] As of July 1, 1988, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made within the Department of Education to implement the provisions of this section and actions taken pursuant hereto.

*(6)*[~~(7)~~] The Superintendent of Public Instruction shall have general supervision of all assistants, agents and employees. He shall be responsible for implementing policies promulgated by the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~]. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

*(7)*[~~(8)~~] All employees shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

*(8)*[~~(9)~~] The Superintendent of Public Instruction, through his appropriate deputy superintendents, assistants, office heads, and division directors, shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, [~~vocational education, vocational rehabilitation, adult and~~] community education, the Kentucky School for the Blind and the Kentucky School for the Deaf[~~, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed~~]. The Department of Education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

*(9)*[~~(10)~~] The Kentucky School for the Blind Advisory Board, the Kentucky School for the Deaf Advisory Board, the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], the Kentucky Council on Teacher Education and Certification, the State Advisory Committee for Educational Improvement and the State Textbook Commission shall be administratively attached to the office of superintendent, but each shall continue to exercise all the functions conferred upon it by law.

*(10)*[~~(11)~~] The state Department of Education, in the operation and management of its schools and the programs at these schools, shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state Department of Education.

*(11)*[~~(12)~~] The Department of Education shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education[~~, vocational education, vocational rehabilitation and adult education~~].

Section 45. KRS 156.024 is amended to read as follows:

Prior to submission of the formal budgetary requests of the Department of Education, established in KRS 156.010, to the Governor and executive branch, complete copies of the budget areas in *the* [~~each~~] board's jurisdiction shall be forwarded to the State Board for Elementary and Secondary Education [~~and the state~~

~~board for vocational-technical, adult education and vocational rehabilitation services~~] to enable ***it*** [~~them~~] to fully investigate and review said requests and make recommendations to the Governor.

Section 46. KRS 156.035 is amended to read as follows:

(1) The Kentucky State Board for Elementary and Secondary Education ***is*** [~~and the state board for vocational-technical, adult education and vocational rehabilitation services are~~] recognized to be ***a*** public ***body*** [~~bodies~~] corporate and politic, and ***agency*** [~~agencies~~] and ***instrumentality*** [~~instrumentalities~~] of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under ***its*** [~~their~~] control and supervision, the ***board is*** [~~boards are~~] authorized to implement the provisions of any act of Congress appropriating and apportioning funds to the state, to receive funds appropriated by the Kentucky General Assembly, to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws, and to accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The ***board is*** [~~boards are~~] authorized to expend funds necessary for errors and omissions insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this subsection shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the state ***Board*** [~~boards~~] of Education, the Department of Education, or any of their respective officers, agents, or employees.

Section 47. KRS 156.040 is amended to read as follows:

[~~(1)~~] The members of the [~~state board for vocational-technical, adult education and vocational rehabilitation services and the~~] State Board for Elementary and Secondary Education shall have the same qualifications as school board members, except that members of these boards shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

[~~(2) Members of the state board for vocational-technical, adult education and vocational rehabilitation services shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.~~]

Section 48. KRS 156.060 is amended to read as follows:

For meetings of the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], a majority of the voting members shall constitute a quorum for the transaction of business. ***The*** [~~Each~~] board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of ***the*** [~~each~~] board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of the written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The offices of ***the*** [~~each~~] board shall be at the seat of government in the Department of Education and shall be provided by the state. Members of the board may receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for ***the*** [~~each~~] board.

Section 49. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf, [~~and~~] the Kentucky School for the Blind ***and community education programs and services***. [~~The state board for vocational-technical, adult education and vocational rehabilitation services shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.~~]

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. ***The*** [~~Any such~~] lease may be for any initial term commencing with the date of ***the*** [~~such~~] lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which ***the*** [~~said~~] State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring ***the*** [~~such~~] television and related facilities, with appurtenances and [~~such~~] costs as may be incident to the issuance of ***the*** [~~such~~] bonds.

(b) Each [~~such~~] option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the Superintendent of Public Instruction, and delivered to the secretary of the Finance and Administration Cabinet as a member of ***the*** [~~said~~] commission; provided, however, that ***the*** [~~such~~] option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the Superintendent of Public Instruction and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any [~~such~~] contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to [~~such~~] reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any [~~such~~] contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of such television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state ***board*** [~~boards~~] may, on the recommendation and with the advice of the Superintendent of Public Instruction, prescribe, print, publish and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as each deems necessary for the efficient management, control and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by ***the*** [~~each~~] board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the Superintendent of Public Instruction or his designee, the state ***board*** [~~boards~~] shall[~~, within their respective jurisdictional areas,~~] establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the Department of Education.

[~~(6) Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents~~

~~and approved by the council on higher education for the issuance of associate, baccalaureate or graduate degrees. The state board for vocational-technical, adult education and vocational rehabilitation services and the state Department of Education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board. The state board for vocational-technical, adult education and vocational rehabilitation services, with approval of the council on higher education, may contract with institutions of public higher education for the operation of specific programs and projects.~~

~~(7) The Department of Education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the state board for vocational-technical, adult education and vocational rehabilitation services, contract with a local school system for such services.~~

~~(8) The state board for vocational-technical, adult education and vocational rehabilitation services shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.~~

~~(9) The state board for vocational-technical, adult education and vocational rehabilitation services, in conjunction with the council on higher education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(10) The state board for vocational-technical, adult education and vocational rehabilitation services shall have the authority and responsibility to review and to make recommendations to the council on higher education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.~~]

Section 50. KRS 156.230 is amended to read as follows:

(1) The Superintendent of Public Instruction shall annually prepare or cause to be prepared, and submit for approval and publication by the State Board for Elementary and Secondary Education, a list of all public and private high schools or other secondary schools in the state, showing the classification of each.

(2) He shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Elementary and Secondary Education [~~or the state board for vocational-technical, adult education and vocational rehabilitation services~~], such bulletins, programs, outlines of courses, placards, and courses of study as he deems useful in the promotion of the interests of the public schools[~~, vocational education and vocational rehabilitation~~].

(3) He shall also prepare for publication the administrative regulations, minimum standards for schools and educational policies or programs adopted by the ***board***[~~boards~~] for the operation, regulation and government of the schools under ***its*** [~~their~~] supervision.

Section 51. KRS 156.240 is amended to read as follows:

The Superintendent of Public Instruction shall prepare for publication biennially, the complete school laws of the state, including abstracts of decisions of the court of justice, and opinions and interpretations of the attorney general and the Superintendent of Public Instruction. He shall explain the true intent and meaning of the school laws and the published administrative regulations of the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], and in doing so he shall freely consult the Attorney General.

Section 52. KRS 156.250 is amended to read as follows:

[~~(1)~~] The Superintendent of Public Instruction shall biennially prepare the report of the Department of Education as established in KRS 156.010 to be submitted to the Governor and the General Assembly. The report shall set out the number attending the public schools, the amount of state funds apportioned and the source from which derived, the amount raised by county school and independent school district taxes or from other sources of revenue for school purposes, the amount expended for salaries of teachers, for the erection of school buildings, and for incidental and other expenses in the operation of the public schools under his supervision, together with such other facts, statistics and information as may be deemed of interest, including recommendations for the improvement of the schools.

[~~(2) The report shall also detail programs and progress in vocational education and vocational rehabilitation.~~]

Section 53. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to teachers;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Teacher" means the Superintendent of Public Instruction, principal assistants to the Superintendent of Public Instruction and all division directors in the state Department of Education, and any regular or special teacher, or professional employee occupying a position requiring certification by the state Department of Education or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The state Department of Education, other public education agencies as created by the General Assembly, and such members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; [~~and~~]

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of such employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972; ***and***

***(g) The State Department for Adult and Technical Education and the State Board for Adult and Technical Education.***

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any teacher not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employee contributions pursuant to KRS 161.540(2),

or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employee contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employees of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

Such limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and such increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of remuneration to the member for services performed;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System or who made such contributions in the next preceding fiscal year, or for whom picked up employee contributions are currently being made or for whom such contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 54. KRS 163.032 is amended to read as follows:

(1) [~~The Kentucky Department of Education, with assistance from the Kentucky department of personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in the state for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five~~

~~(185) day school year. Salaries for extended employment shall be computed at the same rate as the regular pay.~~

~~(2)~~] The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

***(2)***[~~(3)~~] Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

Section 55. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the state job training coordinating council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations and special populations to include women, the disadvantaged, the handicapped, individuals with limited English proficiency and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned the duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board ***for Adult and Technical Education*** [~~of vocational-technical, adult education and vocational rehabilitation services~~] or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for the handicapped; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the adequacy and effectiveness of the coordination that takes place between vocational education and the job training partnership act; and

(j) Advise the Governor, the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~], ***Kentucky*** [~~state~~] Job Training Coordinating Council, the secretary of the Cabinet for Human Resources, and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council is authorized to obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions and to contract for such services as may be necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state board for vocational-technical, adult education and vocational rehabilitation services, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to federal grants. Such funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the [~~education and humanities~~] Cabinet ***for Workforce Development*** to act as its fiscal agent for purposes of disbursement, accounting and auditing.

Section 56. KRS 163.470 is amended to read as follows:

(1) There is created within the [~~education and humanities~~] Cabinet ***for Workforce Development*** the Department for the Blind.

(2) The executive director shall be appointed by the Governor upon the recommendation of the secretary of the [~~education and humanities~~] Cabinet ***for Workforce Development*** to whom he shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The office of the secretary of the [~~education and humanities~~] Cabinet ***for Workforce Development*** is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired.

(4) All records, equipment and personnel presently under the Division of Vocational Rehabilitation Services for the Blind which includes the Kentucky Business Enterprises Program and the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind, under the jurisdiction of the Department of Rehabilitation Services, Department of Education, shall be transferred to the department. All funds budgeted to the Division of Vocational Rehabilitation Services for the Blind, the Kentucky Business Enterprises Program, the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind shall be transferred to the department. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.

(5) The Department for the Blind shall establish an Advisory Council on Services for the Blind and Visually Impaired of fifteen (15) persons. There shall be statewide representation. Leaders of the known organizations of the blind shall be included. The Advisory Council on Services for the Blind and Visually Impaired shall advise the department and the executive director on matters concerning the delivery of services, the determination of priorities, the formulation of policy, the allocation of resources, the evaluation of programs, and other matters as may be referred to the council by the executive director. The Advisory Council on Services for the Blind and Visually Impaired shall be utilized by the department to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide rehabilitation services to the blind and visually impaired. A majority of the members shall be blind or visually impaired. The term of appointments shall be four (4) years except for the members first appointed: four (4) members shall be appointed for four (4) year terms; four (4) members shall be appointed for three (3) year terms; four (4) members shall be appointed for two (2) year terms; and three (3) members shall be appointed for one (1) year terms. Persons shall be eligible for reappointment; however, no person shall serve more than two (2) consecutive four (4) year terms.

The Governor shall appoint the chairman from the membership of the council. The term of office for the chairman shall be two (2) years, and an appointee shall be eligible to serve more than one (1) term. No department employee shall be a member of the council. Members of the council shall serve without compensation but shall be reimbursed for actual expenses incurred in service on the council.

(6) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(7) At the close of each fiscal year, the department shall prepare a financial report and present it to the secretary of the [~~education and the humanities~~] Cabinet ***for Workforce Development*** and to the Governor. The annual report shall be published. The annual report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(8) The department shall coordinate its functions with other appropriate public and private agencies.

(9) The department shall perform all other duties as required of it by law.

(10) The executive director shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, physical disability or national origin. Department employees shall receive compensation and travel expenses as allowed other employees of the Commonwealth.

(11) There shall be created under the authority of the department, to be directed by the executive director, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(12) There shall be established under the authority of the department to be directed by the executive director, a Division of Business Enterprises. This division shall manage and supervise the vending facilities program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(13) There shall be established under authority of the department, to be directed by the executive director, a Division of Industries for the Blind which shall provide industrial evaluation, training and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind.

(14) There shall be established an office of support services to provide services and data required by the program divisions for proper and timely execution of their assigned responsibilities, including fiscal and personnel management; staff development and training; program planning, evaluation and audit; affirmative action and client appeal and hearing services.

(15) The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office and other staff services as may be deemed necessary.

Section 57. KRS 165A.310 is amended to read as follows:

(1) "Proprietary school" or "school" means any privately owned educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method.

(2) "Board" means the State Board for Proprietary Education.

(3) ***"Cabinet" means the Cabinet for Workforce Development.***

***(4).*** "Agent" means any person employed by an institution to act as agent, solicitor, broker or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.

***(5)***[~~(4)~~] "Degree" means associate degree.

***(6)***[~~(5)~~] "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

***(7)***[~~(6)~~] "School year" is beginning the first day of July and ending the thirtieth day of June next following except when approval shall be suspended or cancelled pursuant to the provisions herein.

***(8)***[~~(7)~~] The definition of a proprietary school shall not include the following:

(a) A school or educational institution supported entirely or partly by taxation from either a local or state source;

(b) A parochial, denominational, or eleemosynary school or institution;

(c) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the state board;

(d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee;

(e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, and the State Board of Embalmers and Funeral Directors of the state of Kentucky established by KRS 316.170.

Section 58. KRS 165A.340 is amended to read as follows:

(1) There is hereby established a State Board for Proprietary Education which shall ***be attached to the Cabinet for Workforce Development and shall*** consist of eleven (11) voting members to be appointed by the Governor as follows:

(a) Three (3) members appointed from a list of names submitted by the Kentucky Association of Independent Business Schools;

(b) Three (3) members representative of proprietary schools other than business colleges;

(c) Five (5) members representative of the public at large; and

(d) In addition, the executive director of the State Postsecondary Education Commission shall serve as a non-voting member.

(2) Upon expiration of each of the respective terms of the members first appointed, the term of each successor shall be four (4) years or until his successor shall be appointed and qualified. At the time of the original appointments, the terms of board members will be staggered so that, as nearly as mathematically possible, they fall into three (3) classes. The first class will have two (2) year terms; the second class will have three (3) year terms; and the third class will have four (4) year terms.

(3) Members of the board shall annually elect one (1) of their number as chairman and the board is authorized to employ and fix the compensation of the director and to employ and fix the compensation of all personnel required by it for the administration of the provisions of this chapter. The board shall have the power to make all rules and regulations including the establishment of fees and other charges, consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at such times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board shall receive fifty dollars ($50) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

Section 59. KRS 194.090 is amended to read as follows:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) There is hereby created, within the cabinet, a Citizens' Commission for Human Resources.

(a) The Citizens' Commission for Human Resources shall advise the Governor, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The Citizens' Commission for Human Resources shall also advise the secretary for human resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The Citizens' Commission for Human Resources shall be composed of no more than fifteen (15) members appointed by the Governor. The members of the Citizens' Commission for Human Resources shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the Cabinet for Human Resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The Governor shall appoint the chairman of the Citizens' Commission for Human Resources upon the recommendation of the secretary for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Citizens' Commission for Human Resources. The Citizens' Commission for Human Resources shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the Citizens' Commission for Human Resources or the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the Cabinet for Human Resources a Council for Health Services.

(a) The Council for Health Services shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for health services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Health Services shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide health services.

(b) The Council for Health Services shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Members of the Council for Health Services shall be chosen to broadly represent public interest groups concerned with health services, professionals involved in the delivery of health services, recipients of health services provided by the state, minority groups, and the general public. The Governor shall appoint the chairman of the Council for Health Services who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for health services shall be nonvoting ex officio members of the Council for Health Services, and the commissioner for health services shall be staff director for, and secretary to the Council for Health Services. The Council for Health Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for health services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the Cabinet for Human Resources a Council for Social Insurance.

(a) The Council for Social Insurance shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for social insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Insurance shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The Council for Social Insurance shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Insurance shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The Governor shall appoint the chairman of the Council for Social Insurance, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for social insurance shall be nonvoting ex officio members of the Council for Social Insurance, and the commissioner for social insurance shall be staff director for and secretary to the Council for Social Insurance. The Council for Social Insurance shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the Cabinet for Human Resources a Council for Social Services.

(a) The Council for Social Services shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for social services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Services shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The Council for Social Services shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Services shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The Governor shall appoint the chairman of the Council for Social Services, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for social services shall be nonvoting ex officio members of the Council for Social Services, and the commissioner for social services shall be staff director for, and secretary to, the Council for Social Services. The Council for Social Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social services. A majority of the appointed members shall constitute a quorum.

(5) [~~There is hereby created within the Cabinet for Human Resources a state job training coordinating council which for administrative and support purposes shall be attached to the department for employment services.~~

~~(a) The council shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for employment services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.~~

~~(b) The council shall review the operation of programs conducted in each service delivery area and the availability, responsiveness, and adequacy of state services, and shall prepare reports and make recommendations to the Governor to improve these programs. The council shall furthermore do all necessary to comply with Public Law No. 97-300, the job training partnership act of 1982, and it shall execute such other manpower and training responsibilities not enumerated in Public Law No. 97-300 as determined by the Governor, the secretary for human resources or the commissioner of the department for employment services.~~

~~(c) The council shall consist of at least twenty-five (25) members who shall be appointed by the Governor and who shall serve for a term of four (4) years or until such time as a successor is appointed and qualified except that upon initial appointment eight (8) of the members shall serve for a term of one (1) year, eight (8) of the members shall serve for a term of two (2) years, and nine (9) of the members shall serve for a term of three (3) years. In the event of a vacancy the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employe of state government. The commissioner of the department for employment services or his designee shall serve as secretary of the council. The department for employment services shall provide the council with professional, technical and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.~~

~~(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the commissioner of the department for employment services and notice of such meetings shall be either in writing or by telephone. For the purpose of conducting business, one-half (1/2) of the membership, excluding any vacancies, shall constitute a quorum.~~

~~(6)~~] There is hereby created within the Cabinet for Human Resources an Institute for Aging.

(a) The Institute for Aging shall advise the Citizens' Commission for Human Resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The Institute for Aging shall be primarily concerned with identifying special needs of the aged and advising the secretary for human resources on how the cabinet may integrate its various programs and services to yield the maximum possible benefit for the aged. The Institute for Aging shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The Institute for Aging shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Aging shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chairman of the Institute for Aging, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Institute for Aging. The Institute for Aging shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

*(6)*[~~(7)~~] There is hereby created within the Cabinet for Human Resources an Institute for Children.

(a) The Institute for Children shall advise the Citizens' Commission for Human Resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The Institute for Children shall be primarily concerned with identifying the special needs of these clientele groups and advising the secretary on how the Cabinet for Human Resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The Institute for Children shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The Institute for Children shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Children shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The Governor shall appoint a chairman of the Institute for Children who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Institute for Children. The Institute for Children shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

Section 60. KRS 194.210 is amended to read as follows:

Whenever the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, [~~the Kentucky Manpower Commission,~~] the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Services Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board, as they relate to the functions transferred in whole or in part by 1974 Acts Ch. 74, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the Council for Manpower Services,~~] the Council for Social Services, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Commission, and the Kentucky Certificate of Need and Licensure Board, in accordance with 1974 Acts Ch. 74, such references or designations shall be deemed to refer to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the State Job Training Coordinating Council,~~]

the Council for Social Services, the Advisory Council on Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board, or the Cabinet for Human Resources, or the secretary for human resources, as may be appropriate.

Section 61. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the state official designated by the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] as being in charge of trade and industrial education shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 62. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Department of Education.

(a) Superintendent of Public Instruction.

(b) State Board of Education.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

**(c) Office of Administration.**

2. Education and Humanities Cabinet:

(a) [~~Department for the Blind.~~

~~(b)~~] Department of Education.

*(b)*[~~(c)~~] Department for Libraries and Archives.

[~~(d) Governor's Council on Vocational Education.~~

~~(e) Kentucky Industries for the Blind.~~]

*(c)*[~~(f)~~] Kentucky Educational Television.

*(d)*[~~(g)~~] Kentucky Historical Society.

*(e)*[~~(h)~~] Kentucky Teachers' Retirement System Board of Trustees.

*(f)*[~~(i)~~] Kentucky School Building Authority.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications and Council Affairs.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management Services.

(c) Office of Historic Properties.

(d) Department for Administration.

(e) Department of Facilities Management.

(f) Department of Information Systems.

(g) State Property and Buildings Commission.

(h) Kentucky Pollution Abatement Authority.

(i) Kentucky Savings Bond Authority.

(j) Deferred Compensation Systems.

(k) Office of Equal Employment Opportunity Contract Compliance.

(l) Capital Plaza Authority.

(m) County Officials Compensation Board.

(n) Financial Disclosure Review Commission.

(o) Kentucky Employees Retirement Systems.

(p) Commonwealth Credit Union.

(q) State Investment Commission.

(r) Kentucky Housing Corporation.

(s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.

(v) Historic Properties Advisory Commission.

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

***14. Cabinet for Workforce Development:***

***(a) Department for Adult and Technical Education.***

***(b) Department for the Blind.***

***(c) State Board for Adult and Technical Education.***

***(d) Governor's Council on Vocational Education.***

***(e) Governor's Commission on Literacy.***

***(f) The State Board for Proprietary Education.***

***(g) The GED Foundation.***

***(h) The Kentucky Occupational Information Coordinating Committee.***

***(i) The Kentucky Job Training Coordinating Council.***

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

Section 63. KRS 165A.350 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless said school shall have been issued by the board a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to 165A.410 and said person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the board.

(3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the board, and unless said application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral as required by the board but not less than five thousand dollars ($5,000).

(4) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to said student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by said proprietary school. The amount of liability on said surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310[~~(6)~~]. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against an agent. The board may consider a claim after ten (10) days' written notice by certified mail, return receipt requested, to such licensee of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid shall bring an action on such bond in any court of record within the state of Kentucky.

(5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.

(6) A surety on said bond may be released therefrom after said surety shall make a written notice thereof directed to the board at least thirty (30) days prior to said release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner as provided herein.

(8) Notwithstanding the provisions of other sections, the board may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no such owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section; provided, that said proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to 165A.410.

(9) An agent's permit shall be suspended by operation of law when said agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the board shall cause said agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that said permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the board.

(10) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or cancelled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

Section 64. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of hearing impaired persons by assuring them an equal opportunity to obtain an education in the public institutions of higher education.

(2) The public institutions of higher education shall make their programs accessible to hearing impaired students by providing support services necessary for such students to fully participate in the programs. The support services shall include but not be limited to interpreters and notetakers in the classroom, and equal access to all support services available to those who are not hearing impaired. Appropriate emergency warning devices shall be available in dormitories housing hearing impaired students.

(3) (a) Primary funding for support services at the institutions excluding costs of capital equipment or modifications for installation of warning devices shall come from vocational rehabilitation funds pursuant to ***Sections 36 to 38 of this Act*** [~~KRS 163.130 to 163.160~~] and subject to the restrictions and requirements for such services set forth in the federally-approved state plan for vocational rehabilitation services. The institutions of higher education and the office of vocational rehabilitation shall cooperate to assure that funds are used to effectively provide support services for hearing impaired students.

(b) The General Assembly shall appropriate funds to the Council on Higher Education to cover the costs of support services at the institutions for residents of Kentucky who are hearing impaired students and who do not qualify for support services from vocational rehabilitation funding or other sources of funding. The funds shall be distributed to institutions based upon actual costs of providing support services to individual students.

(c) The provision of support services to a hearing impaired student shall not be refused or delayed because of a disagreement between the institution and the Office of Vocational Rehabilitation as to who is responsible for funding. In such case it shall be the responsibility of the institution to provide the services and resolve the disagreement.

Section 65. The following KRS section is repealed:

156.032 State board for vocational-technical, adult education and vocational rehabilitation services — Membership — Function.

Section 66. (1) The Division for Client Assistance attached to the office of the secretary of the Education and Humanities Cabinet is hereby abolished and its functions transferred to the office of the secretary of the Cabinet for Workforce Development.

(2) The Kentucky Occupational Information Coordinating Committee in the Cabinet for Human Resources, Department for Employment Services, is hereby abolished and its functions transferred to the Cabinet for Workforce Development.

(3) All state and federal funds, all records, equipment, or any other attendant money or materials which are part of the Kentucky Occupational Information Coordinating Committee (KOICC) and the State Job Training Coordinating Council in the Cabinet for Human Resource are hereby transferred to the Cabinet for Workforce Development.

Section 67. Whereas, it is of the greatest importance that a coordinated effort be implemented to combat unemployment in Kentucky; and whereas the programs covered by this Act are to be managed on the basis of a fiscal year which begins on July 1, an emergency is declared to exist and this Act shall become effective on July 1, 1990.

The Committee Substitute to **HB 814** is as follows:

**HB 814**, AN ACT relating to state government and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 151B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.***

***(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be organized into a Department for Adult and Technical Education, a Department for the Blind, and other departments, divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet.***

*(3) The Cabinet for Workforce Development shall consist of the following major organizational units:*

*(a) The Department for Adult and Technical Education, which is created by Section 2 of this Act;*

*(b) The Department of Vocational Rehabilitation, which is created by Section 35 of this Act;*

*(c) The Department for the Blind, established by KRS 163.470;*

*(d) The State Board for Adult and Technical Education, which is created by Section 17 of this Act;*

*(e) The Division for Client Assistance which is created by Section 43 of this Act;*

*(f) The Governor's Council on Vocational Education, established by KRS 163.086;*

*(g) The Governor's Commission on Literacy, established by Section 25 of this Act;*

*(h) The State Board for Proprietary Education, established by KRS 165A.340;*

*(i) The GED Foundation, established by Section 24 of this Act;*

*(j) The Kentucky Occupational Information Coordinating Committee established by Section 41 of this Act; and*

*(k) The Kentucky Job Training Coordinating Council, established by Section 42 of this Act.*

*(4) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees, and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The Department for Adult and Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. The State Board for Adult and Technical Education shall be attached to the department for administrative purposes.*

*(2) The chief executive officer of the department shall be the commissioner of the Department for Adult and Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor in accordance with KRS 12.050. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned herein.*

*(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of non-degree programs in post-secondary and vocational-technical education, programs and services in adult education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools, state-operated area vocational education centers, state technical institutes, and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.*

*(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.*

*(5) All responsibilities for programs, staff, and operations at state-operated area vocational education centers and state vocational technical schools, existing as of July 1, 1990, shall be transferred from the Kentucky Department of Education to the Department for Adult and Technical Education. The area vocational education centers shall be operated in compliance with program standards established by the State Board for Elementary and Secondary Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the State Board for Elementary and Secondary Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education. The*

*cost of operating area vocational education centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.*

*(6) As of July 1, 1990, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made from the Department of Education to the Department for Adult and Technical Education. Appropriate personnel records shall be transferred from the Kentucky Department of Personnel. These transfers shall be made in order to implement the provisions of this section and action taken pursuant thereto.*

*(7) The Department for Adult and Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Adult and Technical Education.*

*(8) The Department for Adult and Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education, and adult education. The department shall involve representatives from all eligible recipient categories in the development of such plans.*

*(9) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching and rehabilitation specialities. Such agreements and compensation shall be approved by the Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter 45. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.*

*(10) The commissioner shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of adult, technical, and vocational education.*

*(11) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*The Department for Adult and Technical Education shall be divided according to the following organizational structure:*

*(1) The commissioner of the Department for Adult and Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education. The deputy commissioner shall also directly supervise the Office of Technical Education and the Office of the Kentucky Tech System, which are created in subsections (2) and (3) of this section.*

*(2) There is hereby created an Office of Technical Education within the Department for Adult and Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Adult and Technical Education pursuant to KRS 12.050. The office shall be composed of Divisions of Planning and Evaluation, Industrial Training and Development, and Instructional Support.*

*(3) There is hereby created an Office of the Kentucky Tech System within the Department for Adult and Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Adult and Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated vocational technical schools and area centers known as the Kentucky Tech System. The office shall be composed of Divisions of School Operations, Post-Secondary Schools, Area Centers, an Ombudsman and an assistant for budget analysis.*

*(4) There is hereby created an Office of Administrative Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Financial Management, Personnel Services, Support Services, Facilities Management, and Public Information.*

*(5) There is hereby created an Office of Adult Education Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint*

*an office head to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Adult Basic Education and Workplace Skill Enhancement.*

*(6) There is hereby created an Office of Legal Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head pursuant to KRS 12.050 to supervise the duties of the office, which shall be attached for administrative purposes to the office of the commissioner of the Department for Adult and Technical Education.*

*(7) The commissioner of the Department for Adult and Technical Education, with the approval of the secretary of the Cabinet for Workforce Development, shall establish the organizational branches below division level and arrange the branches within the organizational structure of the Department for Adult and Technical Education as set forth in subsections (4) to (6) of this section to provide required program and administrative services and assure effective execution of the department's responsibilities.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*As used in this chapter, unless the context indicates otherwise:*

*(1) "Appointing authority" means the commissioner for the Department for Adult and Technical Education or any person authorized by the commissioner to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing and signed by both the commissioner and his designee.*

*(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of Section 5(4)(i) of this Act.*

*(3) "Board" means the State Board for Adult and Technical Education created by Section 17 of this Act.*

*(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Adult and Technical Education are subject to personnel administration under this chapter.*

*(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.*

*(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.*

*(7) "Commissioner" means the commissioner for the Department for Adult and Technical Education.*

*(8) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.*

*(9) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.*

*(10) "Department" means the Department for Adult and Technical Education as provided by Section 2 of this Act.*

*(11) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Adult and Technical Education requiring certification or its equivalent.*

*(12) "Employee" means a person regularly employed in a position in the Department for Adult and Technical Education for which compensation is on a full-time or part-time basis.*

*(13) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Department for Adult and Technical Education shall be subject to personnel administration under KRS Chapter 151B.*

*(14) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an attorney employed by the Department for Adult and Technical Education.*

*(15) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.*

*(16) "Initial probation" means the one-year period following initial appointment of certified and equivalent employees under Section 12 of this Act which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.*

*(17) "Limited status" means employment that is renewable on an annual basis.*

*(18) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, or other disciplinary actions.*

*(19) "Position" means employment in the department involving duties requiring the services of one (1) person.*

*(20) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.*

*(21) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.*

*(22) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.*

*(23) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Adult and Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of Section 14 of this Act.*

*(24) "Region" means a grouping of counties as defined in respective state plans for vocational education and for vocational rehabilitation.*

*(25) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.*

*(26) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.*

*(27) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.*

*(28) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.*

*(29) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position, as well as any assistant or secretary attached to the position, who shall be exempt from the state classified service under KRS Chapter 18A and who is employed in the Department for Adult and Technical Education under KRS Chapter 151B.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) Effective July 1, 1990, all existing staff in the field offices and the state-operated vocational schools and appropriate central office personnel from the Kentucky Department of Education shall be transferred to the Department for Adult and Technical Education. Those individuals with merit status shall be transferred to the department. Those employees who are on probation shall be transferred but shall be subject to completion of the probationary period. Annual, compensatory, and sick leave accrued as of July 1, 1990, shall be transferred with the employees.*

*(2) The State Board for Adult and Technical Education shall adopt and establish by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult and Technical Education central office, state-operated vocational facilities, and regional staffs. The regulations shall not become effective until October 1, 1990. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A.*

*(3) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult and Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.*

*(4) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:*

*(a) Establishment and abolishment of positions;*

*(b) Applications;*

*(c) Certification;*

*(d) Classification and compensation plans;*

*(e) Incentive programs;*

*(f) Selection of employees;*

*(g) Types of appointments;*

*(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting and special leaves of absence;*

*(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;*

*(j) Extent and duration of the Kentucky Tech System school term, use of school days, and extended employment;*

*(k) Employee evaluations;*

*(l) Programs to improve the work effectiveness of employees including staff development;*

*(m) Demotion;*

*(n) Dismissal;*

*(o) Layoffs;*

*(p) Suspensions and other disciplinary measures;*

*(q) Probationary periods, limited employment status, and continuing employment status;*

*(r) Promotion;*

*(s) Transfer;*

*(t) Appeals; and*

*(u) Employee grievances and complaints.*

*(5) (a) Administrative regulations promulgated by the board shall comply with the provisions of this Act and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.*

*(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.*

*(c) No administrative body, other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.*

*(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult and Technical Education.*

*(6) The commissioner for adult and technical education shall be the appointing authority with respect to all personnel actions. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.*

*(7) The board shall adopt other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:*

*(a) The procedures to be utilized by the board in the conduct of hearings;*

*(b) Discharge, as provided by this section;*

*(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of Section 9 of this Act, for the manner of notification of the employee of the discipline and right of appeal;*

*(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;*

*(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices and central office in the Department for Adult and Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor. The annual percentage increment under the salary schedule shall be at least equal to that provided for other state employees;*

*(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;*

*(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and*

*(h) Such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.*

*(8) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of Section 5 to Section 16 of this Act, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make such investigation as may be requested by the General Assembly or the Governor and to report thereon.*

*(9) The board shall adopt administrative regulations for a due process hearing and appeal system for aggrieved certified or equivalent employees.*

*(10) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.*

*(11) The board may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, or to a single member of the board acting as a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final decision or determination, based upon the evidence submitted.*

*(12) The board shall promulgate regulations governing the unclassified service including the preparation and maintenance of a salary schedule and other regulations authorized by this chapter.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) All certified, equivalent, and unclassified employees in the Department for Adult and Technical Education shall be provided the same health insurance coverage as all other state government employees provided in KRS 18A.225.*

*(2) All certified, equivalent, and unclassified employees in the Department for Adult and Technical Education are eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265.*

*(3) Employees under the jurisdiction of the Department for Adult and Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent staff hired by the Department for Adult and Technical Education shall be placed in the Kentucky Teachers' Retirement System.*

*(4) All certified, equivalent, and unclassified employees of the Department for Adult and Technical Education shall be provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 through 18A.215.*

*(5) - All reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 by employees of the department in the performance of their official duties shall be reimbursed; no part of the reimbursement shall be included in or accounted as a part of their salaries.*

*(6) All certified, equivalent, and unclassified employees of the Department for Adult and Technical Education are ensured equal employment opportunity regardless of race, color, religion, national origin, handicap, sex, or age.*

*(7) All employees of the Department for Adult and Technical Education shall be given those holidays and rights granted state employees pursuant to KRS 18A.190.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The records of the Department for Adult and Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.*

*(2) (a) A personnel file shall be maintained by the department for each employee. The file aintained by the department shall be the official personnel file for the employee.*

*(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.*

*(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.*

*(3) Upon written request, an employee shall have the right to examine his personnel file. An employee may comment in writing on any item in the file. Such comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.*

*(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*Except as provided by the provisions of this chapter, the commissioner for adult and technical education may refuse to consider an applicant, for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove the person already appointed if:*

*(1) It is found that the applicant did not maintain certification or that certification has been revoked for the position;*

*(2) The person is unable to perform the duties of the position;*

*(3) The applicant made a false statement of material fact in the application;*

*(4) The application was not submitted correctly or within the prescribed time limits;*

*(5) The applicant has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;*

*(6) The applicant or employee has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;*

*(7) The applicant has previously been dismissed from a position in the department for cause or has resigned while charges for dismissal for cause of which the employee had knowledge were pending; or*

*(8) The applicant or employee has otherwise willfully violated the provisions of this chapter.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Department for Adult and Technical Education.*

*(2) Employees with continuing status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.*

*(3) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:*

*(a) The specific reasons for dismissal including:*

*1. The statutory or regulatory violation;*

*2. The specific action or activity on which the intent to dismiss is based;*

*3. The date, time and place of such action or activity; and*

*4. The name of the parties involved; and*

*(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or his designee.*

*(4) The department shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner for adult and technical education or his designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:*

*(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and*

*(b) The time limits and procedures to be followed by all parties in pretermination hearings.*

*(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or his designee.*

*(6) The appearance shall be scheduled six (6) working days after receipt of an employee's request to appear before the commissioner or his designee, excluding the day the employee's request is received.*

*(7) No later than five (5) working days after the employee appears before the commissioner or his designee, excluding the day of the appearance, the commissioner or his designee shall:*

*(a) Determine whether to dismiss the employee or to alter, modify or rescind the intent to dismiss; and*

*(b) Notify the employee in writing of the decision.*

*(8) If the commissioner or his designee determines that the employee shall be dismissed, the employee shall be notified in writing of:*

*(a) The effective date of dismissal or other penalization;*

*(b) The specific reason for such action, including:*

*1. The statutory or regulatory violation;*

*2. The specific action or activity on which the dismissal is based;*

*3. The date, time, and place of the action or activities; and*

*4. The names of the parties involved; and*

*(c) That the employee may appeal such dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.*

*(9) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:*

*(a) The demotion or suspension;*

*(b) The effective date of the demotion or suspension;*

*(c) The specific reason for such action including:*

*1. The statutory or regulatory violation;*

*2. The specific action or activity on which the demotion or suspension is based;*

*3. The date, time, and place of the action or activity; and*

*4. The name of the parties involved; and*

*(d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.*

*(10) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged or impeded. If the board determines that the records related to the employee and that the right to inspect or copy such records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.*

*(11) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, handicap, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, handicap, or age in accordance with KRS Chapter 344.*

*(12) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The department shall be responsible for the distribution of the forms.*

*(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer or other penalization, or notice of any other action an employee may appeal under the provisions of this section.*

*(c) Upon receipt of the appeal by the board, the commissioner shall be notified and the board shall schedule a hearing within the time limits prescribed by this section.*

*(13) All notices from the board shall be in writing. Notices shall be written so as to be understood by non-attorneys.*

*(14) (a) The appealing employee and the commissioner whose action is appealed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts.*

*(b) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section.*

*(c) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal such denial under the provisions of this section.*

*(d) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by such investigations and such information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon such information.*

*(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts, and information contained in the record.*

*(15) At the hearing of appeals, technical rules of evidence shall not apply. Upon its own motion or upon request of a party, the board may require the production by a party, an employee, or the department, of documents, records, and other material relevant to the appeal.*

*(16) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:*

*(a) Employ class action procedures; or*

*(b) Conduct test representative cases.*

*(17) A board member or hearing officer shall neither initiate, participate in, nor consider ex parte communications concerning a pending or impending proceeding before the board, except as specifically authorized by administrative regulation of the board in the conduct of a prehearing mediation and settlement procedure formally established by the board under KRS Chapter 13A. Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.*

*(18) An appeal to the board may be heard by the full board or one (1) or more of the following: a board member, its general counsel, or any of its hearing officers hired by personal service contract.*

*(19) The board shall review the record of the evidence presented, the finding of fact, and recommendations.*

*(20) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex, age, or handicap, the commissioner shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.*

*(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;*

*(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and*

*(d) In all other cases, the board shall rescind the action taken or otherwise grant such other relief to which the employee is entitled.*

*(21) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.*

*(22) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition of the appeal.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) Any final order of the board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of a certified, equivalent, or unclassified employee may be appealed either by the employee or by the appointing authority.*

*(2) The party aggrieved may, within thirty (30) days after the entry of the final order resulting in dissatisfaction, appeal that order by filing a petition with the clerk of the Franklin Circuit Court. The petition shall state completely the grounds upon which the review is sought and shall specify the alleged errors in the board's conclusion and order. The appellant shall furnish a copy of the petition to the opposing party and the board. Summons shall be issued by the circuit court clerk upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. Service on the board shall be had by serving the Attorney General or any assistant attorney general. The board shall within thirty (30) days after service of the summons file an attested copy of the order with the circuit court clerk, and of all the steps taken by the board relative to the attested order. If either party requests a transcript of the evidence, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days.*

*(3) The board, the employee, and the appointing authority shall be necessary parties to appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires. If the appeal is from an order upholding the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the employee.*

*(4) The case shall be set by the court for as early a day as possible for a hearing, and shall in all respects be expedited.*

*(5) No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:*

*(a) The board acted without or in excess of its power;*

*(b) The order appealed from was procured by fraud or misconduct;*

*(c) Substantial evidence supports the order appealed from; or*

*(d) The board's decision is supported by law.*

*(6) The court shall enter judgment affirming, modifying, or setting aside the order or, in its discretion, remanding the case to the board for proceedings in conformity with the directions of the court.*

*(7) Any party may appeal from the Circuit Court to the Court of Appeals in accordance with the Rules of Civil Procedure.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of Section 10 of this Act, the board shall forward a certified copy of the order to the Department for Adult and Technical Education, which shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.*

*(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.*

*(c) All other deductions shall be deducted as required by law or by other state regulation.*

*(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set off or deduction, except for set off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.*

*(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) All certified and equivalent employees shall serve a one-year probationary period for renewal of limited status. An employee may be separated from the position or reduced in class during this initial probationary period and shall not have a right to appeal except as provided in Section 9 of this Act. If the employee is separated from the position, notice in writing shall be received at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. Unless the commissioner notifies the employee of separation prior to the end of the initial probationary period, the employee shall be eligible for renewable limited status. Limited status employees are subject to reemployment on an annual basis.*

*(2) After completion of the initial probationary period, the individual shall be considered on limited status until successful completion of the fourth year, at which time the employee may be placed on continuing status.*

*(3) An employee who has been assigned continuing status may not be demoted, disciplined, or dismissed without cause except as provided by provisions in this chapter.*

*(4) An employee with continuing status who has been promoted shall serve a probationary period of one (1) year in the new position. During the period of promotional probation, the employee shall retain the rights and privileges granted by the provisions of this chapter to continuing status employees.*

*(5) During the promotional probationary period, the employee with continuing status may be reverted at the discretion of the appointing authority to a position in the class formerly held.*

*(6) A continuing status employee who has been laid off may return to a position with continuing status if an appropriate position is available.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) By October 1, 1990, the State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult and technical education and a committee composed of equal numbers of teachers, counselors, and administrators.*

*(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.*

*(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.*

*(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.*

*(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.*

*(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.*

*(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, provided the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.*

*(5) Teachers and administrators in the state-operated schools shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:*

*(a) School or classroom management, as appropriate;*

*(b) Job knowledge and skills;*

*(c) Instructional management;*

*(d) Employee conduct; and*

*(e) Professional responsibility.*

*(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:*

*(a) Job knowledge and skills;*

*(b) Quality of work;*

*(c) Employee conduct; and*

*(d) Professional responsibility.*

*(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the State Department for Adult and Technical Education.*

*(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of such evaluation by the evaluator.*

*(b) Within five (5) working days of such reconsideration, an employee may:*

*1. Submit a written response to any evaluation which shall be attached to the evaluation; and*

*2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.*

*(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:*

*1. Obtained written statements from both the employee and the evaluator; or*

*2. Met with the employee and the evaluator; and*

*3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.*

*(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the Kentucky Tech System, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner who shall make a final ruling. For other employees in the Department for Adult and Technical Education, this appeal would go to the appropriate office head and then to the commissioner.*

*(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:*

*(a) Demoted to a position commensurate with abilities; or*

*(b) Terminated.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.*

*(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The department shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.*

*(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.*

*(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.*

*(5) For a period of three (3) years, laid-off employees shall be considered before any applicant except another laid-off employee with more seniority who is already on the list.*

*(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:*

*(a) The laid-off employee notifies the department in writing that he no longer wishes to be considered for a position on the list;*

*(b) Two (2) written offers of appointment are declined, such offers to be for a position of the same classification and salary, and located in the same region, as the position from which laid off;*

*(c) Without good cause, the laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;*

*(d) The laid-off employee cannot be located by postal authorities at the last address provided; or*

*(e) The laid-off employee has willfully violated the provisions of this chapter.*

*(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective*

*on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.*

*(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of Section 9 of this Act.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) A layoff of an employee with continuing status in the department due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.*

*(2) Prior to the notification of layoff and prior to the layoff of an employee, the department shall prepare a lay-off plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the commissioner, the employee shall be notified of the pending layoff, and of:*

*(a) The reason for the layoff;*

*(b) The procedures established by the provisions of Section 14 of this Act, and this section for the layoff of employees; and*

*(c) The rights granted employees subject to layoff and to laid-off employees.*

*(3) (a) An employee subject to layoff shall be considered for a vacant position within the department of the same pay grade, level of duties and responsibilities for which the employee is qualified.*

*(b) If a vacancy does not exist, the employee shall be considered for any vacant position within the department for which qualifications are held.*

*(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations, ethnic origin, sex, handicap, or age.*

*(2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.*

*(3) No certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee.*

*(4) No certified or equivalent employee shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise the right as a citizen privately to express an opinion and to cast a vote. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, Department of Adult and Technical Education which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership. The members of the previous State Board for Adult, Vocational Education and Vocational Rehabilitation shall comprise the original members of the State Board for Adult and Technical Education and shall serve in such capacity for the remainder of their terms.*

*(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.*

*(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.*

*(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.*

*(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.*

*(6) The board shall have the authority to enter into agreements with other agencies in order to carry out services under its jurisdiction.*

*(7) The board shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs.*

*(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.*

*(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The Kentucky State Board for Adult and Technical Education is recognized to be a public body corporate and politic, and agency and instrumentality of the Commonwealth in the performance of essential governmental functions.*

*(2) For the benefit of programs under its control and supervision, the board may implement the provisions of any act of Congress appropriating and apportioning funds to the state, receive funds appropriated by the Kentucky General Assembly, provide for the proper apportionment and disbursement of those funds in accordance with state or federal laws, and accept and provide for the administration of any gifts, donations, or devises.*

*(3) (a) The board may expend funds necessary for errors and omissions, insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.*

*(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.*

*(c) Nothing in this section shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the board or any of its respective officers, agents, or employees.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*For meetings of the State Board for Adult and Technical Education, a majority of the voting members shall constitute a quorum for the transaction of business. The board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The office of the board shall be at the seat of government in the Department for Adult and Technical Education and shall be provided by the state. Members* *of the board shall receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and shall be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the board.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*The State Board for Adult and Technical Education shall have the management and control of state-operated vocational schools, and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult education programs and services.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on Higher Education for the issuance of associate, baccalaureate, or graduate degrees. The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees. Joint programming and articulation of vocational-technical education programs with associate degree programs shall be pursued when feasible. No public institution of higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the State Board for Adult and Technical Education. The State Board for Adult and Technical Education, with approval of the Council on Higher Education, may contract with public institutions of higher education for the operation of specific programs and projects.*

SECTION 22. KRS 156.253 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) The *commissioner of the Department for Adult and Technical Education* [~~superintendent of public instruction~~] may enter into agreement to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the State Board for *Adult and Technical Education* [~~vocational, technical, adult education and vocational rehabilitation services~~] at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45.360 and 45.700 to 45.720 when awarded on the basis of a detailed training plan approved by the *commissioner of the Department for Adult and Technical Education* [~~Superintendent of Public Instruction~~]. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The *commissioner of the Department for Adult and Technical Education* [~~superintendent of public instruction~~] may approve authorization for the Department *for Adult and Technical* [~~of~~] Education to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

SECTION 23. KRS 156.485 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5.00) fee may be assessed by the State Board for [~~vocational-technical,~~] Adult *and Technical* Education [~~and vocational rehabilitation services~~] for the issuance of a duplicate GED high school equivalency certificate. All fees collected for duplicate certificates shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;

(c) Staff shall be employed and trained by the Department ***for Adult and Technical*** [~~of~~] Education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED, high school equivalency examination; and

(d) Essay readers will be assigned to the Division of Adult ***Basic*** Education to score essays daily.

SECTION 24. KRS 156.486 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby established a nonprofit foundation to be known as the "GED Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the ***State Board for Adult and Technical Education*** [~~appropriate board~~] with responsibility for adult education programs based on recommendations from business, industry, labor, education and interested citizens. Staff assistance for the board of trustees shall be provided by the agency with the responsibility for administering the adult education program.

***(4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.***

SECTION 25. KRS 158.790 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) The Governor's Commission on Literacy is hereby established and is attached to the office of the secretary of the [~~education and humanities~~] Cabinet ***for Workforce Development.***

(2) The members of the Commission on Literacy shall be appointed by the Governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult literacy programs.

(3) Members shall be appointed for a term of four (4) years or until their successors are appointed and qualified, and shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employees. Members may be reappointed to the commission. In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which the member has been appointed.

(4) The duties of the Commission on Literacy shall be to:

(a) Formulate a statewide strategy and program plan for adult literacy;

(b) Review and recommend grants to public and private groups to support literacy programs;

(c) Review and evaluate literacy programs and report findings and recommendations to the Governor, the Legislative Research Commission, and appropriate cabinet and department heads;

(d) Provide a public information and education program to promote literacy;

(e) Enroll the support of business and industry for literacy programs;

(f) Perform such other functions as may be assigned by the Governor;

(g) Employ an executive director and other necessary personnel within the limits of funds made available; and

(h) Conduct research projects or make studies into and publish reports on the extent of illiteracy in Kentucky.

SECTION 26. KRS 158.795 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

As an agency of the [~~education and humanities~~] Cabinet ***for Workforce Development***, the Governor's

Commission on Literacy shall administer a statewide adult literacy program. Subject to the availability of resources, services shall be provided in every county for the operation of adult literacy programs.

### SECTION 27. KRS 163.020 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

This state accepts and agrees to comply with all the provisions of the acts of Congress of the United States approved February 23, 1917, and all subsequent acts relating to vocational education [~~as defined herein~~], the purpose of which is to provide training, develop skills, abilities, understandings, attitudes, work habits, and appreciation, and to impart knowledge and information needed by workers to enter into and make progress in their chosen vocations. These training opportunities ***shall*** [~~should~~] be provided for the young people who are enrolled in the regular day schools and, also, for out-of-school youth and adults, both employed and unemployed, who are in need of and can profit by vocational training.

### SECTION 28. KRS 163.030 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~] is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the acts of Congress accepted by ***Section 27 of this Act*** [~~KRS 163.020~~], and is given all the necessary power and authority in administering vocational education and carrying out the provisions of the acts relating thereto.

### SECTION 29. KRS 163.070 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by ***Section 27 of this Act*** [~~KRS 163.020~~], and he shall collect the money and pay it out upon the order of the State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~].

### SECTION 30. KRS 163.085 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education ***may*** [~~and vocational rehabilitation services is authorized to~~] purchase, lease, or erect one (1) or more buildings to be used as state vocational schools at such sites and serving such areas of the state as, in the discretion of the board, will best meet the vocational education needs of the Commonwealth. Such facilities for vocational education shall be operated in accordance with policies of the board and in accordance with the state plan for vocational education.

### SECTION 31. KRS 163.087 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

Tuition and fees for secondary pupils enrolled in the state vocational-technical schools and area vocational education centers shall be free to all residents of Kentucky. The State Board for ***Adult and Technical*** [~~vocational-technical, adult~~] Education [~~and vocational rehabilitation services~~] shall fix the rate of tuition and fees for post secondary pupils and adults who are enrolled in the state operated vocational-technical schools and area vocational education centers. The state board shall fix the rate of tuition and fees and the conditions on which post secondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of post secondary pupils and adults as may be incurred.

### SECTION 32. KRS 163.088 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The ***commissioner of the Department for Adult and Technical Education may*** [~~superintendent of public instruction is authorized to~~] provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the Department ***for Adult and Technical*** [~~of~~] Education in vocational schools ***and centers***. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

### SECTION 33. KRS 163.089 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

(1) The ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~] is authorized to provide medical and accident insurance for students enrolled in the state vocational-technical schools and area vocational education centers. The Department ***for Adult and Technical*** [~~of~~] Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state vocational-technical schools and area vocational education centers. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board ***for Adult and Technical*** [~~of~~] Education, upon the recommendation of the ***commissioner of the Department for Adult and Technical Education*** [~~superintendent of public instruction~~], shall adopt administrative regulations to implement the medical and accident insurance program. The State Board ***for Adult and Technical*** [~~of~~] Education may fix the rate of fees for all secondary and post-secondary students and adults, the provisions of ***Section 31 of this Act*** [~~KRS 163.087~~] with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board ***for Adult and Technical*** [~~of~~] Education.

SECTION 34. KRS 163.110 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

In enacting ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~] it is the intention of the General Assembly of Kentucky to provide for and improve the vocational rehabilitation of citizens of the Commonwealth of Kentucky with physical and mental handicaps in order that they may increase their social and economic well-being and the productive capacity of the Commonwealth and nation.

SECTION 35. KRS 163.120 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

***(1) The Department of Vocational Rehabilitation is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. The department shall be composed of Divisions of Field Services, Program Development, Support Services, and the Carl D. Perkins Comprehensive Rehabilitation Center.***

***(2)*** The ***Department of Vocational Rehabilitation*** [~~superintendent of public instruction is hereby authorized to establish within the department of education a State Vocational Rehabilitation Agency. This agency~~] shall have such powers and duties as contained in ***Sections 34 to 40 of this Act*** [~~KRS 163.110 to 163.180~~] and such other functions as may be established by administrative regulation [~~of the State Board for vocational-technical, adult Education and vocational rehabilitation services~~].

***(3) The department shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.***

***(4) The chief executive officer of the department shall be the commissioner of the Department of Vocational Rehabilitation. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development. The commissioner shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department.***

***(5) Except as otherwise provided, the department shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The office of the secretary of the Cabinet for Workforce Development is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.***

***(6) As of July 1, 1990, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made from the Office of Vocational Rehabilitation, Department of Education to the Department of Vocational Rehabilitation, Cabinet for Workforce Development.***

***(7) Employees under the jurisdiction of the Department of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.***

SECTION 36. KRS 163.130 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B TO READ AS FOLLOWS:

*Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any individual with a physical or mental handicap:*

*(1) Who maintains a domicile in the Commonwealth at the time of filing his application therefor, and whose vocational rehabilitation the state vocational rehabilitation agency determines after full investigation can be satisfactorily achieved; or*

*(2) Who is eligible therefor under the terms of an agreement with another state or with the federal government.*

SECTION 37. KRS 163.140 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

*(1)* The *Commissioner of the Department of Vocational Rehabilitation* [~~State Board for vocational-technical, adult Education and vocational rehabilitation services, upon recommendation of the superintendent of public instruction,~~] shall prescribe *administrative* [~~rules and~~] regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to *Section 34 to 40 of this Act* [~~KRS 163.110 to 163.180~~] to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

*(2) Except as provided in Section 36 of this Act, the commissioner may prescribe administrative regulations to establish fees for services provided to individuals or entities, public or private.*

*(3) The commissioner is authorized to provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the department for the transportation of applicants or clients of the department. If the transportation is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence to such amounts as the commissioner designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any applicant or client or other person, or death or injury of any applicant or client or other person.*

SECTION 38. KRS 163.160 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B TO READ AS FOLLOWS:

*This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved June 2, 1920 (41 Stat. 735) relating to vocational rehabilitation and all subsequent acts pertaining to state and federal vocational rehabilitation programs enacted prior to March 1, 1990, when such acts apply to joint state and federally funded vocational rehabilitation programs. The Governor of the Commonwealth may, by executive order, accept such Acts of Congress enacted subsequent to March 1, 1990, as may be deemed desirable and necessary.*

SECTION 39. KRS 163.170 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for vocational rehabilitation purposes upon certification by the *commissioner of the Department of Vocational Rehabilitation* [~~superintendent of public instruction~~].

SECTION 40. KRS 163.180 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 151B AND AMENDED TO READ AS FOLLOWS:

The *commissioner of the Department of Vocational Rehabilitation may,* [~~superintendent of public instruction is hereby authorized and empowered (with approval of the State Board for occupational Education) to~~] accept and use gifts made by will or otherwise for carrying out the purposes of *Sections 34 to 40 of this Act* [~~KRS 163.110 to 163.180~~]. Gifts made under such conditions as in the judgment of the *commissioner of the Department of Vocational Rehabilitation* [~~superintendent of public instruction~~] are proper and consistent with the provisions of *Sections 34 to 40 of this Act* [~~KRS 163.110 to 163.180~~] may be so accepted and shall be held, invested, reinvested, and used in accordance with the provisions of *Sections 34 to 40 of this Act* [~~KRS 163.110 to 163.180~~].

SECTION 41. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Cabinet for Workforce Development.*

*(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky career information system.*

*(3) The committee shall do all things necessary to comply with Public Law No. 98-524, the Carl D. Perkins Vocational Education Act; Public Law No. 97-300, the Job Training Partnership Act; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.*

*(4) The objectives of the committee shall include, but shall not be limited to the following:*

*(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;*

*(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;*

*(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;*

*(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;*

*(e) To develop, implement, and operate a Kentucky career information system for use by counselors, students, the unemployed, and others in the career decision making process;*

*(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;*

*(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and*

*(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.*

*(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:*

*(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;*

*(b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;*

*(c) The commissioner of the Department for Existing Business and Industry, Cabinet for Economic Development;*

*(d) The executive director of the Bluegrass State Skills Corporation;*

*(e) The executive director of the Governor's Council on Vocational Education;*

*(f) The office head for the Office of Vocational Rehabilitation;*

*(g) The office head for the Office of Vocational Education;*

*(h) The office head for the Office of Adult Education;*

*(i) The chancellor of the University of Kentucky Community College System;*

*(j) A representative from the Kentucky Council on Higher Education;*

*(k) A representative from the Kentucky Chamber of Commerce; and*

*(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.*

*(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.*

*(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.*

*(8) The committee shall be attached to the Cabinet for Workforce Development.*

*(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.*

SECTION 42. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.*

*(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for human resources, the secretary for economic development, the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.*

*(b) The council shall:*

*1. Perform the functions assigned to it in the Job Training Partnership Act, 42 U.S.C. Section 1501, et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;*

*2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and*

*3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor or the secretary for workforce development.*

*(c) The council shall consist of twenty (20) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult and Technical Education and the secretary of the Cabinet for Economic Development shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.*

*(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.*

***(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.***

SECTION 43. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created a Division for Client Assistance which is assigned for administrative purposes to the office of the secretary of the Cabinet for Workforce Development. The Division for Client Assistance shall be headed by a director who shall be appointed by the secretary of the Cabinet for Workforce Development with the approval of the Governor pursuant to KRS 12.050. The director shall report to the secretary of the Cabinet for Workforce Development and shall be responsible for managing the activities and personnel of the Division for Client Assistance. The cabinet shall hire such personnel as deemed necessary to carry out the function and responsibilities of this office.***

***(2) The Division for Client Assistance shall have such authority as may be necessary to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of handicapped individuals who are receiving treatment, services or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the Cabinet, on behalf of the Division for Client Assistance, may contract with other state agencies to obtain necessary legal or other professional services.***

***(3) The Division for Client Assistance shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in Public Law 98-221.***

Section 44. KRS 156.010 is amended to read as follows:

(1) The Department of Education shall consist of the Superintendent of Public Instruction who shall be the chief executive officer of the department, the organizational structure of the department as set forth in this section, ***and*** the State Board for Elementary and Secondary Education[~~, and the state board for vocational-technical, adult education and vocational rehabilitation services~~].

(2) The Superintendent of Public Instruction shall appoint a deputy superintendent for elementary and secondary education, who shall directly supervise an office of instruction, headed by an office head and composed of divisions of accreditation, teacher education and certification, curriculum and staff development, compensatory education, support services, ***community eduction,*** and student services; and an office of education for exceptional children, headed by an office head and composed of divisions of categorical programs, support services, coordinated programs, the Kentucky School for the Blind, [~~and~~] the Kentucky School for the Deaf, ***and an Office of Secondary Vocational Education composed of Divisions of Program Services, Staff Development, and Support Services.***

(3) [~~The Superintendent of Public Instruction shall appoint a deputy superintendent for vocational-technical, adult education and vocational rehabilitation services, who shall directly supervise an office of vocational education, headed by an office head and composed of divisions of program services, staff development, support services, and school services; an office of vocational rehabilitation, headed by an office head and composed of divisions of field services, program development, support services, and the Carl D. Perkins comprehensive rehabilitation center; and an office of adult and community education, headed by an office head and composed of divisions of adult basic education, community education, and adult special projects.~~

~~(4)~~] The Superintendent of Public Instruction shall appoint a deputy superintendent for research, who shall directly supervise an office of research and planning, headed by an office head and composed of divisions of planning, research, evaluation, and computer services; and an office of communication services, headed by an office head and composed of divisions of media services, recognition and special events, public information, and printing services. The superintendent shall also appoint a deputy superintendent for administration, who shall directly supervise an office of school administration and finance, headed by an office head and composed of divisions of buildings and grounds, pupil transportation, pupil attendance, school district finance, textbook services, surplus property, school food services, and insurance services; and an office of internal administration, headed by an office head and composed of divisions of purchasing, accounting, budget analysis, [~~facilities management,~~] personnel services, and equal education opportunity. Directly attached and responsible to the Superintendent of Public Instruction also shall be an office of legal services headed by an office head, an assistant who shall be secretary to the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], a chief executive assistant to the superintendent, and an ombudsman responsible for coordination and referral of correspondence from the public as it relates to departmental services and functions.

***(4)***[~~(5)~~] The Superintendent of Public Instruction shall establish the organizational units below the division level, and arrange the units within the organizational structure of the Department of Education as set forth in subsections (1) to ***(3)***[~~(4)~~] of this section to provide required program and administrative services and assure effective execution of the department's responsibilities. The superintendent shall further, and as appropriate, abolish or assign, within the organizational structure of the Department of Education established by subsections (1) to *(3)*[~~(4)~~] of this section, those assistant office head positions and principal assistant positions within the department not specifically mentioned in this section but existing as of July 1, 1988.

*(5)*[~~(6)~~] As of July 1, 1988, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made within the Department of Education to implement the provisions of this section and actions taken pursuant hereto.

*(6)*[~~(7)~~] The Superintendent of Public Instruction shall have general supervision of all assistants, agents and employees. He shall be responsible for implementing policies promulgated by the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~]. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

*(7)*[~~(8)~~] All employees shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

*(8)*[~~(9)~~] The Superintendent of Public Instruction, through his appropriate deputy superintendents, assistants, office heads, and division directors, shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, [~~vocational education, vocational rehabilitation, adult and~~] community education, the Kentucky School for the Blind and the Kentucky School for the Deaf[~~, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed~~]. The Department of Education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

*(9)*[~~(10)~~] The Kentucky School for the Blind Advisory Board, the Kentucky School for the Deaf Advisory Board, the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], the Kentucky Council on Teacher Education and Certification, the State Advisory Committee for Educational Improvement and the State Textbook Commission shall be administratively attached to the office of superintendent, but each shall continue to exercise all the functions conferred upon it by law.

*(10)*[~~(11)~~] The state Department of Education, in the operation and management of its schools and the programs at these schools, shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state Department of Education.

*(11)*[~~(12)~~] The Department of Education shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education[~~, vocational education, vocational rehabilitation and adult education~~].

Section 45. KRS 156.024 is amended to read as follows:

Prior to submission of the formal budgetary requests of the Department of Education, established in KRS 156.010, to the Governor and executive branch, complete copies of the budget areas in *the* [~~each~~] board's jurisdiction shall be forwarded to the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~] to enable *it* [~~them~~] to fully investigate and review said requests and make recommendations to the Governor.

Section 46. KRS 156.035 is amended to read as follows:

(1) The Kentucky State Board for Elementary and Secondary Education ***is*** [~~and the state board for vocational-technical, adult education and vocational rehabilitation services are~~] recognized to be ***a*** public ***body*** [~~bodies~~] corporate and politic, and ***agency*** [~~agencies~~] and ***instrumentality*** [~~instrumentalities~~] of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under ***its*** [~~their~~] control and supervision, the ***board is*** [~~boards are~~] authorized to implement the provisions of any act of Congress appropriating and apportioning funds to the state, to receive funds appropriated by the Kentucky General Assembly, to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws, and to accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The ***board is*** [~~boards are~~] authorized to expend funds necessary for errors and omissions insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this subsection shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the state ***Board*** [~~boards~~] of Education, the Department of Education, or any of their respective officers, agents, or employees.

Section 47. KRS 156.040 is amended to read as follows:

[~~(1)~~] The members of the [~~state board for vocational-technical, adult education and vocational rehabilitation services and the~~] State Board for Elementary and Secondary Education shall have the same qualifications as school board members, except that members of these boards shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

[~~(2) Members of the state board for vocational-technical, adult education and vocational rehabilitation services shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.~~]

Section 48. KRS 156.060 is amended to read as follows:

For meetings of the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], a majority of the voting members shall constitute a quorum for the transaction of business. ***The*** [~~Each~~] board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of ***the*** [~~each~~] board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of the written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The offices of ***the*** [~~each~~] board shall be at the seat of government in the Department of Education and shall be provided by the state. Members of the board may receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for ***the*** [~~each~~] board.

Section 49. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf, [~~and~~] the Kentucky School for the Blind ***and community education programs and services***. [~~The state board for vocational-technical, adult education and vocational rehabilitation services shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.~~]

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. ***The*** [~~Any such~~] lease may be for any initial term commencing with the date of ***the*** [~~such~~] lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the

rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which ***the*** [~~said~~] State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring ***the*** [~~such~~] television and related facilities, with appurtenances and [~~such~~] costs as may be incident to the issuance of ***the*** [~~such~~] bonds.

(b) Each [~~such~~] option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the Superintendent of Public Instruction, and delivered to the secretary of the Finance and Administration Cabinet as a member of ***the*** [~~said~~] commission; provided, however, that ***the*** [~~such~~] option shall be deemed automay exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the Superintendent of Public Instruction and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any [~~such~~] contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to [~~such~~] reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any [~~such~~] contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of such television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state ***board*** [~~boards~~] may, on the recommendation and with the advice of the Superintendent of Public Instruction, prescribe, print, publish and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as each deems necessary for the efficient management, control and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by ***the*** [~~each~~] board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the Superintendent of Public Instruction or his designee, the state ***board*** [~~boards~~] shall[~~, within their respective jurisdictional areas,~~] establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the Department of Education.

[~~(6) Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the council on higher education for the issuance of associate, baccalaureate or graduate degrees. The state board for vocational-technical, adult education and vocational rehabilitation services and the state Department of Education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board. The state board for vocational-technical, adult education and vocational rehabilitation services, with approval of the council on higher education, may contract with institutions of public higher education for the operation of specific programs and projects.~~]

~~(7) The Department of Education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the state board for vocational-technical, adult education and vocational rehabilitation services, contract with a local school system for such services.~~

~~(8) The state board for vocational-technical, adult education and vocational rehabilitation services shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.~~

~~(9) The state board for vocational-technical, adult education and vocational rehabilitation services, in conjunction with the council on higher education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(10) The state board for vocational-technical, adult education and vocational rehabilitation services shall have the authority and responsibility to review and to make recommendations to the council on higher education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.~~]

Section 50. KRS 156.230 is amended to read as follows:

(1) The Superintendent of Public Instruction shall annually prepare or cause to be prepared, and submit for approval and publication by the State Board for Elementary and Secondary Education, a list of all public and private high schools or other secondary schools in the state, showing the classification of each.

(2) He shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Elementary and Secondary Education [~~or the state board for vocational-technical, adult education and vocational rehabilitation services~~], such bulletins, programs, outlines of courses, placards, and courses of study as he deems useful in the promotion of the interests of the public schools[~~, vocational education and vocational rehabilitation~~].

(3) He shall also prepare for publication the administrative regulations, minimum standards for schools and educational policies or programs adopted by the ***board***[~~boards~~] for the operation, regulation and government of the schools under ***its*** [~~their~~] supervision.

Section 51. KRS 156.240 is amended to read as follows:

The Superintendent of Public Instruction shall prepare for publication biennially, the complete school laws of the state, including abstracts of decisions of the court of justice, and opinions and interpretations of the attorney general and the Superintendent of Public Instruction. He shall explain the true intent and meaning of the school laws and the published administrative regulations of the State Board for Elementary and Secondary Education [~~and the state board for vocational-technical, adult education and vocational rehabilitation services~~], and in doing so he shall freely consult the Attorney General.

Section 52. KRS 156.250 is amended to read as follows:

[~~(1)~~] The Superintendent of Public Instruction shall biennially prepare the report of the Department of Education as established in KRS 156.010 to be submitted to the Governor and the General Assembly. The report shall set out the number attending the public schools, the amount of state funds apportioned and the source from which derived, the amount raised by county school and independent school district taxes or from other sources of revenue for school purposes, the amount expended for salaries of teachers, for the erection of school buildings, and for incidental and other expenses in the operation of the public schools under his supervision, together with such other facts, statistics and information as may be deemed of interest, including recommendations for the improvement of the schools.

[~~(2) The report shall also detail programs and progress in vocational education and vocational rehabilitation.~~]

Section 53. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to teachers;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Teacher" means the Superintendent of Public Instruction, principal assistants to the Superintendent of Public Instruction and all division directors in the state Department of Education, and any regular or special teacher, or professional employee occupying a position requiring certification by the state Department of Education or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The state Department of Education, other public education agencies as created by the General Assembly, and such members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; [~~and~~]

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of such employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972;

***(g) The State Department for Adult and Technical Education and the State Board for Adult and Technical Education; and***

***(h) The Department for Rehabilitation Services.***

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any teacher not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employee contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employees of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

Such limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and such increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of remuneration to the member for services performed;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employee contributions as described in KRS 161.540(2), plus accrued regular interest;.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System or who made such contributions in the next preceding fiscal year, or for whom picked up employee contributions are currently being made or for whom such contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 54. KRS 163.032 is amended to read as follows:

(1) [~~The Kentucky Department of Education, with assistance from the Kentucky department of personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in the state for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as the regular pay.~~

~~(2)~~] The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

*(2)*[~~(3)~~] Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

Section 55. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the state job training coordinating council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations and special populations to include women, the disadvantaged, the handicapped, individuals with limited English proficiency and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned the duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board ***for Adult and Technical Education*** [~~of vocational-technical, adult education and vocational rehabilitation services~~] or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for the handicapped; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] on the adequacy and effectiveness of the coordination that takes place between vocational education and the job training partnership act; and

(j) Advise the Governor, the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~], ***Kentucky*** [~~state~~] Job Training Coordinating Council, the secretary of the Cabinet for Human Resources, and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council is authorized to obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions and to contract for such services as may be necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state board for vocational-technical, adult education and vocational rehabilitation services, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to federal grants. Such funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the [~~education and humanities~~] Cabinet ***for Workforce Development*** to act as its fiscal agent for purposes of disbursement, accounting and auditing.

Section 56. KRS 163.470 is amended to read as follows:

(1) There is created within the [~~education and humanities~~] Cabinet ***for Workforce Development*** the Department for the Blind.

(2) The executive director shall be appointed by the Governor upon the recommendation of the secretary of the [~~education and humanities~~] Cabinet ***for Workforce Development*** to whom he shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The office of the secretary of the [~~education and humanities~~] Cabinet ***for Workforce Development*** is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired.

(4) All records, equipment and personnel presently under the Division of Vocational Rehabilitation Services for the Blind which includes the Kentucky Business Enterprises Program and the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind, under the jurisdiction of the Department of Rehabilitation Services, Department of Education, shall be transferred to the department. All funds budgeted to the Division of Vocational Rehabilitation Services for the Blind, the Kentucky Business Enterprises Program, the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind shall be transferred to the department. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.

(5) The Department for the Blind shall establish an Advisory Council on Services for the Blind and Visually Impaired of fifteen (15) persons. There shall be statewide representation. Leaders of the known organizations of the blind shall be included. The Advisory Council on Services for the Blind and Visually Impaired shall advise the department and the executive director on matters concerning the delivery of services, the determination of priorities, the formulation of policy, the allocation of resources, the evaluation of programs, and other matters as may be referred to the council by the executive director. The Advisory Council on Services for the Blind and Visually Impaired shall be utilized by the department to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide rehabilitation services to the blind and visually impaired. A majority of the members shall be blind or visually impaired. The term of appointments shall be four (4) years except for the members first appointed: four (4) members shall be appointed for four (4) year terms; four (4) members shall be appointed for three (3) year terms; four (4) members shall be appointed for two (2) year terms; and three (3) members shall be appointed for one (1) year terms. Persons shall be eligible for reappointment; however, no person shall serve more than two (2) consecutive four (4) year terms. The Governor shall appoint the chairman from the membership of the council. The term of office for the chairman shall be two (2) years, and an appointee shall be eligible to serve more than one (1) term. No department employee shall be a member of the council. Members of the council shall serve without compensation but shall be reimbursed for actual expenses incurred in service on the council.

(6) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(7) At the close of each fiscal year, the department shall prepare a financial report and present it to the secretary of the [~~education and the humanities~~] Cabinet ***for Workforce Development*** and to the Governor. The annual report shall be published. The annual report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(8) The department shall coordinate its functions with other appropriate public and private agencies.

(9) The department shall perform all other duties as required of it by law.

(10) The executive director shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, physical disability or national origin. Department employees shall receive compensation and travel expenses as allowed other employees of the Commonwealth.

(11) There shall be created under the authority of the department, to be directed by the executive director, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(12) There shall be established under the authority of the department to be directed by the executive director, a Division of Business Enterprises. This division shall manage and supervise the vending facilities program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(13) There shall be established under authority of the department, to be directed by the executive director, a Division of Industries for the Blind which shall provide industrial evaluation, training and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind.

(14) There shall be established an office of support services to provide services and data required by the program divisions for proper and timely execution of their assigned responsibilities, including fiscal and personnel management; staff development and training; program planning, evaluation and audit; affirmative action and client appeal and hearing services.

(15) The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office and other staff services as may be deemed necessary.

Section 57. KRS 165A.310 is amended to read as follows:

(1) "Proprietary school" or "school" means any privately owned educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method.

(2) "Board" means the State Board for Proprietary Education.

(3) ***"Cabinet" means the Cabinet for Workforce Development.***

***(4)*** "Agent" means any person employed by an institution to act as agent, solicitor, broker or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.

***(5)***[~~(4)~~] "Degree" means associate degree.

***(6)***[~~(5)~~] "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

***(7)***[~~(6)~~] "School year" is beginning the first day of July and ending the thirtieth day of June next following except when approval shall be suspended or cancelled pursuant to the provisions herein.

***(8)***[~~(7)~~] The definition of a proprietary school shall not include the following:

(a) A school or educational institution supported entirely or partly by taxation from either a local or state source;

(b) A parochial, denominational, or eleemosynary school or institution;

(c) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the state board;

(d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee;

(e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, and the State Board of Embalmers and Funeral Directors of the state of Kentucky established by KRS 316.170.

Section 58. KRS 165A.340 is amended to read as follows:

(1) There is hereby established a State Board for Proprietary Education which shall ***be attached to the Cabinet for Workforce Development and shall*** consist of eleven (11) voting members to be appointed by the Governor as follows:

(a) Three (3) members appointed from a list of names submitted by the Kentucky Association of Independent Business Schools;

(b) Three (3) members representative of proprietary schools other than business colleges;

(c) Five (5) members representative of the public at large; and

(d) In addition, the executive director of the State Postsecondary Education Commission shall serve as a non-voting member.

(2) Upon expiration of each of the respective terms of the members first appointed, the term of each successor shall be four (4) years or until his successor shall be appointed and qualified. At the time of the original appointments, the terms of board members will be staggered so that, as nearly as mathematically possible, they fall into three (3) classes. The first class will have two (2) year terms; the second class will have three (3) year terms; and the third class will have four (4) year terms.

(3) Members of the board shall annually elect one (1) of their number as chairman and the board is authorized to employ and fix the compensation of the director and to employ and fix the compensation of all personnel required by it for the administration of the provisions of this chapter. The board shall have the power to make all rules and regulations including the establishment of fees and other charges, consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at such times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board shall receive fifty dollars ($50) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

Section 59. KRS 194.090 is amended to read as follows:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) There is hereby created, within the cabinet, a Citizens' Commission for Human Resources.

(a) The Citizens' Commission for Human Resources shall advise the Governor, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The Citizens' Commission for Human Resources shall also advise the secretary for human resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The Citizens' Commission for Human Resources shall be composed of no more than fifteen (15) members appointed by the Governor. The members of the Citizens' Commission for Human Resources shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the Cabinet for Human Resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The Governor shall appoint the chairman of the Citizens' Commission for Human Resources upon the recommendation of the secretary for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Citizens' Commission for Human Resources. The Citizens' Commission for Human Resources shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the Citizens' Commission for Human Resources or the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the Cabinet for Human Resources a Council for Health Services.

(a) The Council for Health Services shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for health services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Health Services shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide health services.

(b) The Council for Health Services shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Members of the Council for Health Services shall be chosen to broadly represent public interest groups concerned with health services, professionals involved in the delivery of health services, recipients of health services provided by the state, minority groups, and the general public. The Governor shall appoint the chairman of the Council for Health Services who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for health services shall be nonvoting ex officio members of the Council for Health Services, and the commissioner for health services shall be staff director for, and secretary to the Council for Health Services. The Council for Health Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for health services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the Cabinet for Human Resources a Council for Social Insurance.

(a) The Council for Social Insurance shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for social insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Insurance shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The Council for Social Insurance shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Insurance shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The Governor shall appoint the chairman of the Council for Social Insurance, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for social insurance shall be nonvoting ex officio members of the Council for Social Insurance, and the commissioner for social insurance shall be staff director for and secretary to the Council for Social Insurance. The Council for Social Insurance shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the Cabinet for Human Resources a Council for Social Services.

(a) The Council for Social Services shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for social services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Services shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The Council for Social Services shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Services shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The Governor shall appoint the chairman of the Council for Social Services, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources and the commissioner for social services shall be nonvoting ex officio members of the Council for Social Services, and the commissioner for social services shall be staff director for, and secretary to, the Council for Social Services. The Council for Social Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social services. A majority of the appointed members shall constitute a quorum.

(5) [~~There is hereby created within the Cabinet for Human Resources a state job training coordinating council which for administrative and support purposes shall be attached to the department for employment services.~~

~~(a) The council shall advise the Citizens' Commission for Human Resources, the secretary for human resources, the commissioner for employment services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.~~

~~(b) The council shall review the operation of programs conducted in each service delivery area and the availability, responsiveness, and adequacy of state services, and shall prepare reports and make recommendations to the Governor to improve these programs. The council shall furthermore do all necessary to comply with Public Law No. 97-300, the job training partnership act of 1982, and it shall execute such other manpower and training responsibilities not enumerated in Public Law No. 97-300 as determined by the Governor, the secretary for human resources or the commissioner of the department for employment services.~~

~~(c) The council shall consist of at least twenty-five (25) members who shall be appointed by the Governor and who shall serve for a term of four (4) years or until such time as a successor is appointed and qualified except that upon initial appointment eight (8) of the members shall serve for a term of one (1) year, eight (8) of the members shall serve for a term of two (2) years, and nine (9) of the members shall serve for a term of three (3) years. In the event of a vacancy the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employe of state government. The commissioner of the department for employment services or his designee shall serve as secretary of the council. The department for employment services shall provide the council with professional, technical and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.~~

~~(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the commissioner of the department for employment services and notice of such meetings shall be either in writing or by telephone. For the purpose of conducting business, one-half (1/2) of the membership, excluding any vacancies, shall constitute a quorum.~~

~~(6)~~] There is hereby created within the Cabinet for Human Resources an Institute for Aging.

(a) The Institute for Aging shall advise the Citizens' Commission for Human Resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The Institute for Aging shall be primarily concerned with identifying special needs of the aged and advising the secretary for human resources on how the cabinet may integrate its various programs and services to yield the maximum possible benefit for the aged. The Institute for Aging shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The Institute for Aging shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Aging shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chairman of the Institute for Aging, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Institute for Aging. The Institute for Aging shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

***(6)***[~~(7)~~] There is hereby created within the Cabinet for Human Resources an Institute for Children.

(a) The Institute for Children shall advise the Citizens' Commission for Human Resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The Institute for Children shall be primarily concerned with identifying the special needs of these clientele groups and advising the secretary on how the Cabinet for Human Resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The Institute for Children shall be utilized by the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The Institute for Children shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Children shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The Governor shall appoint a chairman of the Institute for Children who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the Institute for Children. The Institute for Children shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

Section 60. KRS 194.210 is amended to read as follows:

Whenever the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, [~~the Kentucky Manpower Commission,~~] the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Services Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board, as they relate to the functions transferred in whole or in part by 1974 Acts Ch. 74, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the Council for Manpower Services,~~] the Council for Social Services, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Commission, and the Kentucky Certificate of Need and Licensure Board, in accordance with 1974 Acts Ch. 74, such references or designations shall be deemed to refer to the Citizens' Commission for Human Sesources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the State Job Training Coordinating Council,~~] the Council for Social Services, the Advisory Council on Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board, or the Cabinet for Human Resources, or the secretary for human resources, as may be appropriate.

Section 61. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the state official designated by the State Board for ***Adult and Technical Education*** [~~vocational-technical, adult education and vocational rehabilitation services~~] as being in charge of trade and industrial education shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast

the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 62. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Department of Education.

(a) Superintendent of Public Instruction.

(b) State Board of Education.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) [~~Department for the Blind.~~

~~(b)~~] Department of Education.

*(b)*[~~(c)~~] Department for Libraries and Archives.

[~~(d) Governor's Council on Vocational Education.~~

~~(e) Kentucky Industries for the Blind.~~]

*(c)*[~~(f)~~] Kentucky Educational Television.

*(d)*[~~(g)~~] Kentucky Historical Society.

*(e)*[~~(h)~~] Kentucky Teachers' Retirement System Board of Trustees.

*(f)*[~~(i)~~] Kentucky School Building Authority.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications and Council Affairs.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management Services.

(c) Office of Historic Properties.

(d) Department for Administration.

(e) Department of Facilities Management.

(f) Department of Information Systems.

(g) State Property and Buildings Commission.

(h) Kentucky Pollution Abatement Authority.

(i) Kentucky Savings Bond Authority.

(j) Deferred Compensation Systems.

(k) Office of Equal Employment Opportunity Contract Compliance.

(l) Capital Plaza Authority.

(m) County Officials Compensation Board.

(n) Financial Disclosure Review Commission.

(o) Kentucky Employees Retirement Systems.

(p) Commonwealth Credit Union.

(q) State Investment Commission.

(r) Kentucky Housing Corporation.

(s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.

(v) Historic Properties Advisory Commission.

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

***14. Cabinet for Workforce Development:***

***(a) Department for Adult and Technical Education.***

***(b) Department for Vocational Rehabilitation.***

***(c) Department for the Blind.***

***(d) State Board for Adult and Technical Education.***

***(e) Governor's Council on Vocational Education.***

***(f) Governor's Commission on Literacy.***

***(g) The State Board for Proprietary Education.***

***(h) The GED Foundation.***

***(i) The Kentucky Occupational Information Coordinating Committee.***

***(j) The Kentucky Job Training Coordinating Council.***

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 63. KRS 165A.350 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless said school shall have been issued by the board a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to 165A.410 and said person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the board.

(3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the board, and unless said application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral as required by the board but not less than five thousand dollars ($5,000).

(4) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to said student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by said proprietary school. The amount of liability on said surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310[~~(6)~~]. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against an agent. The board may consider a claim after ten (10) days' written notice by certified mail, return receipt requested, to such licensee of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid shall bring an action on such bond in any court of record within the state of Kentucky.

(5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.

(6) A surety on said bond may be released therefrom after said surety shall make a written notice thereof directed to the board at least thirty (30) days prior to said release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner as provided herein.

(8) Notwithstanding the provisions of other sections, the board may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no such owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section; provided, that said proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to 165A.410.

(9) An agent's permit shall be suspended by operation of law when said agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the board shall cause said agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that said permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the board.

(10) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or cancelled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

Section 64. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of hearing impaired persons by assuring them an equal opportunity to obtain an education in the public institutions of higher education.

(2) The public institutions of higher education shall make their programs accessible to hearing impaired students by providing support services necessary for such students to fully participate in the programs. The support services shall include but not be limited to interpreters and notetakers in the classroom, and equal access to all support services available to those who are not hearing impaired. Appropriate emergency warning devices shall be available in dormitories housing hearing impaired students.

(3) (a) Primary funding for support services at the institutions excluding costs of capital equipment or modifications for installation of warning devices shall come from vocational rehabilitation funds pursuant to ***Sections 36 to 38 of this Act*** [~~KRS 163.130 to 163.160~~] and subject to the restrictions and requirements for such services set forth in the federally-approved state plan for vocational rehabilitation services. The institutions of higher education and the office of vocational rehabilitation shall cooperate to assure that funds are used to effectively provide support services for hearing impaired students.

(b) The General Assembly shall appropriate funds to the Council on Higher Education to cover the costs of support services at the institutions for residents of Kentucky who are hearing impaired students and who do not qualify for support services from vocational rehabilitation funding or other sources of funding. The funds shall be distributed to institutions based upon actual costs of providing support services to individual students.

(c) The provision of support services to a hearing impaired student shall not be refused or delayed because of a disagreement between the institution and the Office of Vocational Rehabilitation as to who is responsible for funding. In such case it shall be the responsibility of the institution to provide the services and resolve the disagreement.

Section 65. The following KRS section is repealed:

156.032 State board for vocational-technical, adult education and vocational rehabilitation services — Membership — Function.

Section 66. (1) The Division for Client Assistance attached to the office of the secretary of the Education and Humanities Cabinet is hereby abolished and its functions transferred to the office of the secretary of the Cabinet for Workforce Development.

(2) The Kentucky Occupational Information Coordinating Committee in the Cabinet for Human Resources, Department for Employment Services, is hereby abolished and its functions transferred to the Cabinet for Workforce Development.

(3) All state and federal funds, all records, equipment, or any other attendant money or materials which are part of the Kentucky Occupational Information Coordinating Committee (KOICC) and the State Job Training Coordinating Council in the Cabinet for Human Resource are hereby transferred to the Cabinet for Workforce Development.

Section 67. Whereas, it is of the greatest importance that a coordinated effort be implemented to combat unemployment in Kentucky; and whereas the programs covered by this Act are to be managed on the basis of a fiscal year which begins on July 1, an emergency is declared to exist and this Act shall become effective on July 1, 1990.

The Committee Amendment No. 1 to the Committee Substitute to **HB 814** is as follows:

Amend printed copy of HCS to **HB 814** on page 104, line 7, after the word "the" by placing brackets around and striking through the word "state" and by inserting the word "***Kentucky***" in lieu thereof;

On page 144, between lines 10 and 11, by inserting the following:

"Section 65. KRS 194.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the state of Kentucky all applicable state laws and all rules and regulations necessary in accordance with applicable state laws to protect, develop and maintain the health, welfare, personal dignity, integrity and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet for Human Resources. The secretary shall adopt, administer and enforce such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, [~~the State Job Training Coordinating Council,~~] the Council for Social Services, the Council for Health Services, or the Council for Social Insurance to review and make recommendations on contemplated administrative regulations. The appropriate citizens' council or councils shall be involved in the development of all administrative regulations issued under the authority of the cabinet. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary and the secretary shall not delegate this authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the office of the counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the Cabinet for Human Resources. All fees collected for inspections shall be deposited in the state treasury and credited to a revolving fund account to be used for administration of those programs of the Cabinet for Human Resources. The balance of said account shall lapse to the general fund at the end of each biennium. Such fees shall not be charged for investigation of complaints.

Section 66. KRS 194.100 is amended to read as follows:

There shall be an annual joint conference of all members of the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, [~~the state job training coordinating council,~~] the Council for Social Services, the Council for Social Insurance, and the Council for Health Services. The secretary for human resources shall be chairman of the annual joint conference and shall utilize this conference to discuss and receive joint recommendations from all of the commissions, institutes and councils involved in the programs and services of the cabinet.

Section 67. KRS 194.140 is amended to read as follows:

Whenever the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the state job training coordinating council,~~] and the Council for Social Services are assigned a responsibility for qualifying the Commonwealth for federal programs with representation and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create from the membership of the citizens' councils special subcommittees within these citizens' councils which meet federal requirements.

Section 68. KRS 194.180 is amended to read as follows:

All rules, regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the state job training coordinating council,~~] the Council for Social Services, the Advisory Council for Medical Assistance, and the Comprehensive Health Planning Council, shall remain in effect as rules, regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

Section 69. KRS 194.190 is amended to read as follows:

The Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the state job training coordinating council~~], the Council for Social Services, the Advisory Council for Medical Assistance, the Comprehensive Health Planning Council, and the Kentucky Certificate of Need and Licensure Board shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

Section 70. KRS 194.200 is amended to read as follows:

The members of the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, [~~the state job training coordinating council,~~] and the Council for Social Services shall receive no compensation for their services, but shall be allowed the necessary and actual expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be held to be a public officer by reason of his membership on a council."

renumbering subsequent sections accordingly.

The Committee Amendment No. 2 to the Committee Substitute to **HB 814** is as follows:

Amend printed copy of HCS to **HB 814** on page 144, between lines 10 and 11, by adding the following:

"SECTION 65. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

*(1) Any person who willfully violates any provision of Sections 4 through 15 of this Act shall be guilty of a misdemeanor, and shall upon conviction be punished with a sentence of from thirty (30) days to a maximum of six (6) months in jail.*

*(2) Any person who is convicted of a misdemeanor shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or position.*

***(3) Any officer or certified or equivalent employee of the classified service who willfully violates any of the provisions of Section 16 of this Act shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.***"; and

renumber the subsequent sections accordingly.

The Committee on Labor and Industry reported **HB 168** with Committee Amendment attached thereto, **HB 647** with Committee Substitute attached thereto, **HB 865**, **HB 908**, **HB 924**, **HB 926** and **HJR 183** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 168,** AN ACT relating to boiler operators.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 236.030 is amended to read as follows:

***(1)*** After reasonable notice and opportunity to be heard in accordance with KRS Chapter 13A, the commissioner of housing, buildings and construction, upon advisement by the board, shall, by administrative regulation, fix reasonable standards for the safe construction, installation, inspection and repair of boilers, pressure vessels and associated pressure piping in this state. Such administrative regulations shall be enforced by the department of housing, buildings and construction, division of fire prevention.

***(2) The board shall recommend to the commissioner the training and experience necessary for persons to engage in boiler operation. The commissioner may, pursuant to KRS Chapter 13A, promulgate administrative regulations setting forth qualifications for boiler operators and issue a boiler operator certificate for any person who has met the requirements.***

***(3) Any person engaged in boiler operations for two (2) years prior to the effective date of this Act shall be issued a certificate notwithstanding the regulations which the commissioner may issue.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 236 IS CREATED TO READ AS FOLLOWS:

***(1) The commissioner may set up reasonable fees, not to exceed actual costs, for the certification and examination, if any, of boiler operators.***

***(2) All fees received according to subsection (1) of this section shall be held in a trust and agency fund from which the expenses of administration of the boiler operators' certification may be paid and no portion of the fund shall lapse into the general fund at the end of each fiscal year.***

The Committee Amendment No. 1 to **HB 168** is as follows:

Amend printed copy of **HB 168** on page 1, line 14, after the word "***in***" insert the word "***industrial***"

and on line 16, after the word "***for***" insert the word "***industrial***"

and on line 17, after the word "***issue***" add the words "***an industrial***" and delete the word "***a***"

and on line 19, after the word "***in***" insert the word "***industrial***"

and on page 2, line 6, after the word "***of***" insert the word "***industrial***" and on line 9, before the word "***boiler***" insert the word "***industrial***"

**HB 647,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The following KRS section is repealed:

342.800 Application to claims — Filing under federal coal mine health and safety act.

The Committee Substitute to **HB 647** is as follows:

**HB 647,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.800 is amended to read as follows:

Acts 1980, Chapter 104, and the other sections of KRS Chapter 342, shall be effective on July 15, 1980 for all claims based upon an injury or last exposure which occurs on or after that date; provided, however that in the event the federal Coal Mine Health and Safety Act provides that claims covered by the provisions of KRS Chapter 342 may also be filed with a federal agency, then, in that event, the increase in benefits provided by Acts 1980, Chapter 104 shall not apply to any individual claim under KRS Chapter 342, if benefits are awarded to and are received by that particular claimant under such federal law. For those claims, the benefits under this chapter shall be sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the average weekly wage of the state as determined in KRS 342.740. [~~Anyone who files a claim under this chapter for coal-workers pneumoconiosis or silicosis benefits must also file and pursue in good faith a claim under the federal Coal Mine Health and Safety Act.~~]

**HB 865,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.690 is amended to read as follows:

(1) If an employer secures payment of compensation as required by this chapter, the liability of ***the*** [~~such~~] employer under this chapter shall be exclusive and in place of all other liability of ***the*** [~~such~~] employer to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from ***the*** [~~such~~] employer at law or in admiralty on account of ***the*** [~~such~~] injury or death. For purposes of this section, the term "employer" shall include a "contractor" covered by subsection (2) of KRS 342.610, ***unless*** [~~whether or not~~] the subcontractor has in fact, secured the payment of compensation. The liability of an employer to another person who may be liable for or who has paid damages on account of injury or death of an employee of ***the*** [~~such~~] employer arising out of and in the course of employment and caused by a breach of any duty or obligation owed by ***the*** [~~such~~] employer to ***the*** [~~such~~] other shall be limited to the amount of compensation and other benefits for which ***the*** [~~such~~] employer is liable under this chapter on account of ***the*** [~~such~~] injury or death, unless ***the*** [~~such~~] other and the employer by written contract have agreed to share liability in a different manner. The exemption from liability given an employer by this section shall also extend to ***the*** [~~such~~] employer's carrier and to all employees, officers or directors of ***the*** [~~such~~] employer or carrier, provided the exemption from liability given an employee, officer or director or an employer or carrier shall not apply in any case where the injury or death is proximately caused by the wilful and unprovoked physical aggression of ***the*** [~~such~~] employee, officer or director.

(2) If an employer fails to secure payment of compensation as required by this chapter, an injured employee, or his legal representative in case death results from the injury, may claim compensation under this chapter and in addition may maintain an action at law or in admiralty for damages on account of ***the*** [~~such~~] injury or death.[~~, provided that~~] The amount of compensation shall be credited against the amount received in ***the*** [~~such~~] action, and [~~provided that,~~] if the amount of compensation is larger than the amount of damages received, the amount of damages less the employee's legal fees and expenses shall be credited against the amount of compensation. In ***the*** [~~such~~] action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, that the employee assumed the risks of his employment, or that the injury was due to the contributory negligence of the employee.

(3) An employer shall retain all common law defenses against any action by an employee who elects not to be covered, as provided under subsection (6) of KRS 342.650.

**HB 908,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and no respiratory impairment resulting from exposure to coal dust based upon spirometric testing values of eighty percent (80%) or more of the predicted normal values contained in the chapter on the respiratory system in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, he shall award a one time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. The one time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040, by the employee while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employee leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge. To file a claim under this paragraph a claimant may elect, in lieu of any other method or procedure, to be examined by a physician named by the board and paid for by the employer. Based upon this examination the administrative law judge may make appropriate findings and enter an award if indicated. A claimant or employer aggrieved by a decision of the administrative law judge shall have forty-five (45) days to file an appeal to the board as provided by KRS 342.285.

(b) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks.

(c) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(d) If the administrative law judge finds that an employee has occupational pneumoconiosis with a radiographic classification of category 2/1, 2/2, 2/3, 3/2, 3/3 or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards. ***However, if the administrative law judge determines from the totality of all spirometric testing, performed in compliance with accepted medical standards, that the largest spirometric test values set out in this subsection do not accurately demonstrate the presence of respiratory impairment, he may determine the presence of respiratory impairment on the basis of the spirometric test values which he determines more accurately establishes the presence of respiratory impairment.***

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to such occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

**HB 924**, AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***For the purposes of this Act, the term "state employee" shall mean all persons, including elected public officials, who are regularly employed by the Executive, Judicial and Legislative Departments of government, except employees of the Transportation Cabinet and the University of Kentucky who have their own self-insurance fund. The term "state employee" shall also include volunteer firefighters and volunteer ambulance personnel; persons who are regularly employed by the Fayette County Health Department; and persons who are regularly employed by court clerks and sheriffs of counties with a population of seventy-five thousand (75,000) or more.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established a State Employee Workers' Compensation Fund which shall be administered by the Department of Personnel's Division of Employee Benefits. The purpose of this fund shall be to self-insure workers' compensation benefits for state employees.***

***(2) All moneys contributed by participants of the fund, or derived from federal funds, shall be credited to and constitute a part of the State Employee Workers' Compensation Fund.***

***(3) The State Treasurer, with the approval of the Finance and Administration Cabinet, may invest the State Employee Benefit Workers' Compensation Fund. Any income derived from these investments, or dividends, shall be credited to and become a part of the general fund. Any moneys remaining in the fund after all claims, premiums or subscription charges, and other expenses have been paid, shall be retained in the fund. All moneys remaining in the State Employee Workers' Compensation Fund on July 1, or deposited thereafter, shall be deemed a trust and agency account and shall not lapse, but shall be continuously appropriated only for the purposes specified in this Act.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***The Department of Personnel shall promulgate administrative regulations necessary for the administration of the State Employee Workers' Compensation Fund established by Section 1 of this Act, the actuarial soundness of the fund, the integrity of the fund, the purchase of reinsurance or excess insurance, and the expenditure of moneys from the fund.***

SECTION 4. A NEW SECITON OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***At least every two (2) years the Department of Personnel shall have an actuary familiar with workers' compensation insurance prepare an actuarial analysis of the State Employee Workers' Compensation Fund established by Section 1 of this Act and make any recommendation that he deems appropriate. The department may, at any time, request an actuary to evaluate the adequacy of the rates of contribution. These rates may be adjusted if the adjustment is recommended by the actuary.***

**HB 926,** AN ACT relating to workers' compensation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the administrative law judge pursuant to the statutes and administrative regulations. In an original claim, no attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to 20 percent of the first $25,000.00, 15 percent of the next $10,000.00 and 5 percent of the remainder of the amount recovered as actuarially determined on past and future benefits according to the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables and the Remarriage Tables of the Dutch Royal Insurance Institute. If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used. In no case shall the fee exceed $6,500.00. Provided, however, the administrative law judge, in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The administrative law judge may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 shall result in an award of an attorney fee not exceeding $750.00.

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The attorney fee shall be paid in one of the following ways:

-(a) [~~The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or~~

~~(b)~~] The claimant may pay the attorney's fee out of his personal funds; or

*(b)*[~~(c)~~] The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid.

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee, is to be paid. His selection and statement that he fully understands the method to be used shall be submitted, on a notarized form signed by the claimant, by his attorney at the time the motion for approval of the attorney's fee is submitted. The board shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of attorney fees and an explanation in nontechnical language of each method.

(4) The General Assembly declares that by the enactment of subsection (2)(b) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5) The administrative law judge shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316 the attorney fee shall not exceed an amount equal to $750.00.

(b) In all other claims, the fee of the attorney shall not exceed a sum equal to twenty percent (20%) of the amount recovered, or $5000.00, whichever is less.

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney fee may be awarded by the administrative law judge. In awarding the attorney fee, the administrative law judge shall consider:

1. The quality of services rendered by the attorney;

2. The amount awarded for attorney fees on the original award; and

3. The extent of the services rendered.

(b) Thereafter, the administrative law judge shall fix the attorney fee. No attorney fee shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to twenty percent (20%) of any additional amount recovered but shall not exceed three thousand two hundred and fifty dollars ($3,250). If there is no additional amount recovered in a reopened claim, there shall be no attorney fee.

**HJR 183**, A JOINT RESOLUTION petitioning the Legislative Research Commission to establish a special Task Force on Collective Bargaining for State Employees.

WHEREAS, there are approximately thirty-four thousand (34,000) permanent full-time employees in the Executive Department of Government.

WHEREAS, the employees of the Executive Department are represented by a myriad of associations; and

WHEREAS, the General Assembly has experienced increasing difficulty in determining the views and long-term goals of the Executive Department because of the lack of continuity and consistency in the representation of state employees;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Legislative Research Commission appoint a Task Force on Collective Bargaining for State Employees. It is recommended that the membership of the Task Force on Collective Bargaining be composed of eleven (11) members as follows: co-chairmen of the Interim Joint Committee on Labor and Industry; the Secretary of the Labor Cabinet or his designee; the Secretary of the Finance and Administration Cabinet or his designee; the Commissioner of Personnel or his designee; three (3) members selected from a list provided by the Kentucky State AFL-CIO; three (3) members representing public personnel management.

Section 2. It is recommended that the Task Force on Collective Bargaining be chaired by co-chairmen selected by the members.

Section 3. The Task Force shall conduct a study of the feasibility and impact of collective bargaining for state employees in the Commonwealth.

Section 4. Staff services for the Task Force shall be provided by the staff of the Interim Joint Committee on Labor & Industry. Staff services and costs incurred by the Legislative Research Commission are estimated to be $30,000 and shall be provided from the regular budget of the Legislative Research Commission subject to the limitations and other research responsibilities of the Commission.

Section 5. The Task Force shall report its findings and recommendations to the Legislative Research Commission by August 1, 1991.

### Calendar

**HB 403, HB 726, HB 781, HJR 124, HCR 159, HJR 173, SB 240, SB 230, HB 663, HB 888, HB 758, HB 796, SB 190, HB 263, HB 274, HB 514, HB 694, HB 752, HB 753** and **HCR 175** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

### Consent Calendar

**HB 828, SB 271, HB 838, HB 887, HB 275, HB 277, HB 281, HB 282, HB 283** and **HB 284** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the House stand at ease to wait upon the arrival of the Senate for a Joint Session for the State of the Judiciary Address by Chief Justice Robert F. Stephens. Agreed.

Representative Stumbo moved that floor privileges be granted to the Justice of the Supreme Court and invited guests. Agreed.

The Chief doorkeeper announced the arrival of the President of the Senate.

The Honorable Brereton C. Jones, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Lieutenant Governor Jones assumed the chair and called the Joint Session to order.

### Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The doorkeeper announced the arrival of Chief Justice Robert F. Stephens.

The Honorable Brereton C. Jones introduced the Honorable Robert F. Stephens, Chief Justice of the Supreme Court of the Commonwealth of Kentucky.

Chief Justice Robert F. Stephens addressed the General Assembly as follows:

## STATE OF JUDICIARY ADDRESS
## TO THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY
BY: CHIEF JUSTICE ROBERT F. STEPHENS
MARCH 14, 1990

Governor Wilkinson, Lieutenant Governor Jones, President Pro Tempore Rose, Speaker Blandford, Senators, members of the House, Secretary of State Erhler, Attorney General Cowan, Fellow Justices and Judges, Circuit Court Clerks, guests of the General Assembly, friends, my family and my fellow Kentuckians.

It is with a sense of duty and with a sense of pleasure that I appear before this joint session of the Kentucky

General Assembly to deliver, as Chief Justice, my constitutionally mandated address of the State of the Judiciary in this Commonwealth.

Before proceeding with that task, I want to pause — for a moment — to express to this General Assembly and to its predecessors, on behalf of the nearly 2,300 employees of the Kentucky Court of Justice, our deepest appreciation for your continuing concern, interest and support of Kentucky's Judicial system. The mutual respect and cooperation between the Kentucky judicial branch of government and the Kentucky legislative branch of government is very rare in this country. At a recent historic national meeting, sponsored by the National Conference of State Legislators, the Conference of Chief Justices, and the National Center for State Courts, to address the problem of legislative-judicial relations, Kentucky was repeatedly cited as an example of how these two branches of government should relate to each other, while still preserving and respecting each other's constitutional duties and responsibilities. For your leadership in making this valued and unique relationship possible, I salute you. You certainly make my job easier, more productive, and more rewarding, all of which directly benefits those Kentucky citizens who are users of the judicial system.

When one ponders the condition of Kentucky's judiciary, one's conclusion depends upon one's perspective. For example, if you are the Chief Justice of Kentucky, with a daily continuing stream of complaints, problems, brush fires, requests for jobs, requests for pay raises, requests for everything from pencils to computers, and a myriad of other administrative problems, one would occasionally conclude that the Kentucky judicial system seems to be bogged down in a miasma of mistakes, confusion, delays and incompetence. I am sure these feelings are not unknown to the members of the General Assembly, who face similar problems and frustrations on a daily basis.

On the other hand, if one is a Chief Justice, or court administrator, of another state, or if one is a staff member of the National Center for State Courts, or if one is a student of the judiciary, one views Kentucky as having the finest judicial system in the United States, particularly with respect to its constitutional and statutory structure. That viewpoint would cite the uniform, integrated system, with the Supreme Court acting as a board of directors, with the Chief Justice as the chairman of the board. That viewpoint would acknowledge that the total funding of the courts by the General Assembly provides a strong vehicle to solve the problems of the business of judging, with regular input by the General Assembly. That viewpoint would give accolades to the General Assembly and to the people of Kentucky who, by the enactment of the Judicial Article in 1975, brought Kentucky's judicial system out of the dark ages and into leadership in this century.

Because I am Chief Justice, and because my time is filled with the day-by-day operation of the court system, I sometimes neglect to think about and recognize the absolute truth of that second viewpoint. Daily fatigue and frustration sometimes tend to diffuse the broad picture of any situation. Perhaps it is a matter of being too close to the trees to see the forest. It is my view, however, that, even with its problems, clearly Kentucky has the finest judicial system in the United States.

All of you know that, for the past 15-20 years, we have been in a litigation explosion in this country, and in this Commonwealth. Our case load — at all levels of the court system — has been on the increase. This increase is continuing and, although the rate of increase has slowed considerably, the difficulty and complexity factor of the cases has increased, thus necessitating more and more study time and thought by judges as they reach their decisions.

Because of the assistance the General Assembly has given us over the years, and because we have made many administrative changes, we have managed to handle, at least in part, that increasingly complex case load. Our overall annual disposition rate has increased and the overall length of time for disposition of cases has also dropped every year. The bottom line is that we are getting more work done and we are getting it done more quickly. The positive achievements have been primarily due to the efforts of individual judges who, after recognizing the problem, have made great personal efforts, and have effectively used the technological and administrative devices with which we have provided them.

We have addressed the problem of appellate delay by the use of video taping systems which are now installed in 37 courtrooms in the Commonwealth. Today, transcripts of evidence are ready immediately upon completion of the trial, and six hours of testimony, (which are totally accurate and not subject to human error) is available to litigants for $15.00 while a normal transcript would cost $750-$1,000 and would take weeks or months to complete. In long trials, the results are even more dramatic.

Since I have last talked with you, the Ford Foundation and the John F. Kennedy School of Government, at Harvard, honored Kentucky Video Courts with one of its $100,000 innovations awards for excellence in state and local government. More than 1,000 applicants for those awards are received each year. Moreover, Kentucky's lead in the use of video taping of trials is being followed by 12-15 states, and the federal government. While other recordation systems are floundering in the past, our video system has thrust Kentucky into the 21st century. Our video system is the wave of the future. The taxpayers and the litigants who pay the freight in the judicial system are the direct beneficiaries of this system. Our commitment to further expand and improve the system is a firm one.

In 1986, the General Assembly passed a far reaching bill which mandated that the Court of Justice develop a system to keep broad-based statistical data of the activities of the Kentucky Courts. Although no financial appropriation was made in that Act, we have responded by developing a local-state computer information system which will comply with the mandate. We have pilot projects — installed and functioning — in four counties — Johnson, Clark, Warren and Kenton. We are now ready to proceed, full bore, with the implementation of the statewide system and meet the mandate of the General Assembly. In our budget for 1990-1992 we have sought funds for installation of the computers — called SUSTAIN — in 36 counties. In the foreseeable future, the information mandated by the General Assembly will be available. This system will attack court delay by allowing judges to manage their dockets and will bring more "sunshine" into the court system.

Since the implementation of the new Judicial Article, in 1976-1978 — the AOC has been responsible for providing all courthouse space. Since 1976, with your appropriations, we have assisted local governments in building or remodeling 40 courthouses. We have, in that process, seen the cost of construction rise to $100 per square foot. Nearly 25% of the space we provide is for storage of the incredible amount of paperwork with which we have been inundated. Two years ago I made mention to you of a "Paperless Court." I can report to you today that — in Jefferson County — the process has begun. Two so-called laser optical disc storage units have been installed and are working. Each storage disc, about the size of an old "78" record, holds 128,000 pages of legal sized paper. A whole years work can be literally kept in a small filing cabinet, instead of 1200-1500 square feet of precious and expensive office space. A readily accessible and simple index makes the individual pages available for inspection and printing. Kentucky again, has achieved a first. We would like to continue with refining of this technology and broadening its use.

We are planning a statewide system to use modern facsimile machines. This system, under special rules of procedure, will serve litigants and attorneys well by being available in all circuit clerks offices. No longer will litigants and attorneys suffer the expense and stress of meeting procedural deadlines by often unreliable mail or even personal delivery.

I take pleasure in reporting to the people of this Commonwealth that the Kentucky Supreme Court, with the help of many people, has adopted a new and more stringent code of professional ethics. In order to further sensitize attorneys as to their ethical standards, we have passed a rule which requires all law students to pass a national examination on ethics before they are eligible to even take the bar examination. We have strengthened our mandatory continuing legal education for judges and lawyers. Along with the Kentucky Bar Association, we have established a blue ribbon commission to study, identify and eliminate gender bias in the legal profession and in the courts of this Commonwealth. The President of the KBA and myself, are in the process of establishing a similar blue ribbon commission to search out and eliminate racial bias in our judicial system. The Kentucky Bar Association is in the process of reviewing, with the assistance of the ABA, the entire process of lawyer discipline.

One of the great weaknesses of the legal system in the country, and in Kentucky, is the failure of too many lawyers to involve themselves in the lives and needs of their community. Too many of us have forgotten the traditional and historical role of lawyers. As a beginning, we have passed a voluntary rule which authorizes the interest earned on attorneys trust accounts to be used in a statewide program, called IOLTA, whose purpose is primarily to fund programs which provide legal services for the indigent. Recently, over $200,000 in grants were made. This is just a beginning.

One last point in this area. Because of the limited amount of funds — both state and federal — available to provide legal service for the poor, I will soon propose to the Supreme Court a rule which will require each and every attorney to donate a regular amount of his or her time for pro bono work. I believe this is a small price for attorneys to pay for the privilege of practicing law in this great Commonwealth.

As I indicated earlier, much has been done, but much, much more remains to be done, so that the Kentucky judicial system lives up to those great purposes for which it was enacted. I can assure you and the people of the Commonwealth that each and every member of the Kentucky Supreme Court is dedicated to seeing that such goal is reached.

I will not dwell on the Court of Justice budget. Suffice it to say that I am keenly aware of the many monumental task before you this session. Our budget, which is somewhat less than 2.2% of the Governor's proposed budget, is small, in comparison to other demands placed on you this session. Needless to say, however, it is critical to the continuing success of the court system, and to the solving of present and future problems, that you give it every possible consideration. We have appeared before both Appropriation and Revenue Committees and have answered questions. As all of you know, I am always available — at your pleasure — to answer any questions you might have or to consider any suggestion you might make. The budget document provided to you represents a realistic evaluation of the needs of the Court of Justice for the next two years. Your favorable consideration will be greatly appreciated.

So much for yesterday and today. What about tomorrow? What about the decade of the 1990's. With your indulgence, I would like to spend a few minutes more of your precious time, and take out my somewhat dusty crystal ball. I would like to respectfully suggest some items which I believe are deserving of your attention, as we enter the last decade of this century.

To begin with, I hope that in the next two years you will give some thought to the process of selecting judges in the Commonwealth. There is no doubt in my mind that our present method of electing judges is one whose time is coming to an end. Thirty-five states and the District of Columbia have adopted some form of retention election. As the big monied, special interests turn their attention, and their money, to the election of judges, the quality of objective, non-political justice will diminish. I submit that **SB 308** is a good example of what can and should be done. This bill, will, in my opinion, cure the only major flaw in our judicial article.

A continuing problem is the compensation of judges. We must continue to attract and keep quality men and women on the bench. In the past year, we have lost four Circuit Judges in our system who were attracted by the much greater compensation offered by private firms. Financial sacrifice will always be a part of public service, but we must be sure that judicial salaries will keep pace so that the alure of the private sector does not become overwhelming. I would suggest to you that a committee on judicial compensation be established by this body, and that its task be to evaluate judicial compensation, on a continuing basis.

In our Circuit Courts, over 53% of the civil dockets are domestic relations cases. Those cases are, normally, highly emotionally charged, and seem to last forever. The impact of divorces on society, in general, and on the affected children, in particular, can be devastating. To be candid with you, I'm not sure that any court system is doing a satisfactory job. I can tell you that there is a school of thought developing, albeit slowly, in this country, that recommends that many of the traditional functions of courts in divorce cases should be removed from the courts and assigned to professionals who are better qualified to solve those problems. I do not necessarily agree with those views, but, I believe you should join with the court system and, at least, consider them.

This General Assembly is well aware of the problem of the disparity of the case load in the District Courts and Circuit Courts of this state. In response to the problem, several years ago I created a system of regional judges, the main purpose of which was to assign cases from the judges who had an excessive case load to those judges who did not. I can report to you that while those efforts met with modest success, the problem still exists. For example, in Letcher County, the Circuit Judge has 421 cases per year, while in Pulaski and Rockcastle Counties, the Circuit Judge has 1,334 cases per year. Yet, the two men get the same compensation. The situation is the same in the District Courts. I must tell you that re-circuiting and re-districting is the only answer. When the circuits and districts were created, in 1976 and 1978, there was much "guesstimating" in creating them. Since then, populations have shifted and the resulting changes in case loads have exacerbated the problem. Re-districting and re-circuiting are a massive and politically risky task. This is particularly true when one considers that re-circuiting also affects Commonwealth Attorneys. I suggest to you that the General Assembly and the Supreme Court create a long range planning committee to work on this problem.

In the past year, I have had the occasion to review the work of the new Workers Compensation Board and the new administrative law judges. In my opinion, the concept and the work product, have been superior. I suggest to you that the General Assembly should consider the creation of a whole layer of administrative law judges to deal with the growing legal issues in the area of administrative law. It seems to me that the results achieved in the workers compensation area could be duplicated in the Public Service Commission, the Department of Transportation, Cabinet for Human Resources, and all other state agencies. There is available to you a wealth of research done by the American Law Institute in their proposed model administrative code. I suggest that such a code — tailored to Kentucky's needs — would be a measurable improvement over the present system.

From 1976 through 1979, I was Attorney General of the Commonwealth. During that time, we developed the so-called Unified Prosecutorial System. Since 1979, I have been on the bench and my experience and interest in the criminal justice system has not lessened. I fought long and hard, in the late 1970's, to retain the system of the County Attorneys and the Commonwealth Attorneys, most of whom are part-time. I now believe that my advocacy was misplaced. Effective prosecution at a local level, and at an appellate level, I believe would be better served and achieved by the concept of one full time local prosecutor who would "handle" the cases in the District Courts and in the Circuit Courts. Policies would be uniform and much waste, duplication and inefficiency would be eliminated and professionalism would be increased. The limited resources available to prosecutors would be better used. I know this is controversial, but I believe it is an idea whose time has come. I suggest to you that the General Assembly, the Attorney General, and the prosecutors of the Commonwealth, should begin a study of this problem.

Ancillary to the last suggestion, is the need for more full time public defenders and a generous increase in the compensation of these dedicated and hard working men and women. While theirs is not a "popular cause," the Department of Public Advocacy truly serves as a champion and sentinel of our most cherished legal principle — innocent until proven guilty. Theirs is an invaluable dedication to public service without which many would be denied access to justice.

One of the great criticisms that the judicial system sustains is the fact that judges do their work in the same local areas where they are selected — by whatever method. Prejudice or at least the appearance of prejudice, and favoritism, are thought to be present. The people demand and deserve judges who have no friends, who have no bias, and who have no political favors to repay. I know this is an idealistic dream, but it is one which can be achieved. For example, in North Carolina, Trial Judges do not sit in the same districts from which they are elected. It works. I would like to suggest that the General Assembly and the Supreme Court, together, study this as a possibility as we enter the 1990's.

There are many other areas in which I believe improvements in the legal system could be made. I am sure you have many ideas of your own. I hope you will consider these suggestions in the spirit in which they have been given — with respect.

As Senator Rose said to you in his speech on the State of Legislative Branch, separately we can't achieve anything, but together we can accomplish anything. Our state motto — "United We Stand, Divided We Fall" — further reminds us of the mutual benefits of our continued partnership.

Thank you for your support in the past, at present, and in the future.

Representative Stumbo moved that the Joint Session be dissolved. Agreed.

The Speaker resumed the Chair and called the House to order.

### Orders of the Day

**HB 704**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of Floor Amendment No. 1 to **HB 704**. Agreed.

Representative Adkins moved that **HB 704**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 14, 1990 roll call on **HB 704** - Appendix.)

**HB 704**, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 704**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 738**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of Committee Amendment No. 1 to **HB 738**. Agreed.

Representative Freibert moved that **HB 738**, as amended, be passed.

Representative Ward moved the adoption of Floor Amendment No. 1 to **HB 738**. Rejected.

On the roll call the vote was: Yeas 57, Nays 34. (See March 14, 1990 roll call on **HB 738** - Appendix.)

**HB 738**, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 738**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 88** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:08 p.m.)

### Orders of the Day (Continued)

**HB 542**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Northup moved the adoption of Committee Substitute to **HB 542**. Agreed.

Representative Northup moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 542**. Rejected.

Representative Northup moved that **HB 542**, by way of Committee Substitute, be passed.

Representative Donnermeyer moved that **HB 542** by way of Committee Substitute, be laid on the Clerk's Desk.

On the roll call the vote was yeas 3—Barrows, Jackson, Nelson. Nays 91—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Bentley, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman.

The motion that **HB 542** be laid on the Clerk's Desk was rejected.

Representative LeMaster moved that Floor Amendment No. 1 to the Committee Substitute to **HB 542** be reconsidered. Agreed.

Representative Northup moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 542**.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Long, Lyne, Maggard, McBee, McElroy, Moberly, Mullinix, Napier, Noland, Northup, O'Brien, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 8—Barrows, Hancock, Jackson, T. Jones, Little, Mack, Mason, Noe.

Floor Amendment No. 1 to the Committee Substitute to **HB 542** was adopted.

Representative Northup moved that **HB 542**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 58, Nays 30. (See March 14, 1990 roll call on **HB 542** - Appendix.)

**HB 542**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Northup moved that the vote by which **HB 542**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 549** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 549** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 14, 1990 roll call on **HB 549** - Appendix.)

**HB 549** was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 549** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 559**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Committee Substitute to **HB 559**. Agreed.

Representative Gedling moved that **HB 559**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 14, 1990 roll call on **HB 559** - Appendix.)

**HB 559**, by way of Committee Substitute, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 559**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 113**, **HB 285**, **HB 352**, **HB 456**, **HB 511** and **HB 561** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:47 p.m.)

**HB 113**, **HB 285**, **HB 352**, **HB 456**, **HB 511** and **HB 561** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

### Orders of the Day (Continued)

**HB 715**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Floor Amendment No. 1 to **HB 715**. Agreed.

Representative Curd moved that **HB 715**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 14, 1990 roll call on **HB 715** - Appendix.)

**HB 715**, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 715**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 724** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 724** be passed.

On the roll call the vote was: Yeas 83, Nays 3. (See March 14, 1990 roll call on **HB 724** - Appendix.)

**HB 724** was passed and the title agreed to.

Representative Little moved that the vote by which **HB 724** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 818** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **HB 818** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14, 1990 roll call on **HB 818** - Appendix.)

**HB 818** was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 818** was passed be reconsidered and said motion be placed on the table. Agreed.

### Motions, Petitions and Communications

Representative Stumbo moved that **HB 700** be recommitted to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved that **HB 783** be taken from the Clerk's Desk and placed in the Orders of the Day. Agreed.

Representative Stumbo moved that **HB 765** be recommitted to the Committee on Business Organizations and Professions. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SCR 105**. Agreed.

Representative White moved the adoption of the following **HR 204**:

**HR 204**, A RESOLUTION honoring Kim Mays for her outstanding scholastic achievements and excellent abilities in the sport of basketball.

WHEREAS, Kim Mays, of Barbourville, Kentucky, was born on March 10, 1973; and

WHEREAS, Kim Mays is the loving daughter of Harry and Opal Mays; and

WHEREAS, Kim Mays is a senior at Knox Central High School in Barbourville, Kentucky, with a grade point average of 4.0; and

WHEREAS, Kim Mays is a Knox Central Lady Panther, and has excelled in the sport of basketball with current statistics of 42 points per game; 16.6 rebounds per game; 7.3 assists per game; and 3,000 plus career points; and

WHEREAS, Kim Mays has been chosen as an All American player by Parade Magazine; and

WHEREAS, Kim Mays is a candidate for Miss Basketball; and

WHEREAS, because of her outstanding demonstrated abilities, both scholastically and in the sport of basketball, Kim Mays is the recipient of a four year basketball scholarship to Auburn University in Auburn, Alabama; and

WHEREAS, Coach Daphne Goodin and Coach Scott Broughton are to be recognized for their excellent guidance and genius as basketball coaches;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body is proud to commend Kim Mays for her exceptional talents and to wish her success in all future endeavors.

Section 2. That the Clerk of the House of Representatives is directed to transmit two copies of this resolution to Miss Kim Mays, P.O. Box 405, Heidrick, Kentucky 40949, and one copy to Mr. Andy Dunn, Principal, Knox Central High School, North Main Street, Barbourville, Kentucky 40906.

**HR 204** was adopted by voice vote.

Representative Gray moved the adoption of the following **HR 203**:

**HR 203**, A RESOLUTION adjourning the House of Representatives in honor and memory of Milburn Taylor Maupin.

WHEREAS, Milburn Taylor Maupin, aged 63, traversed these earthly bounds on Sunday, March 11, 1990; and

WHEREAS, Milburn Taylor Maupin is remembered for being one of the first blacks to enter the administrative ranks of the old Louisville school system; and

WHEREAS, Milburn Taylor Maupin began his distinguished career in the Louisville schools in 1949 as a teacher at the old Jackson Junior High; and

WHEREAS, the dedicated Milburn Taylor Maupin spent five years serving as principal of the Meyzeek-Washington complex before becoming the school system's first black central-office administrator in 1965; and

WHEREAS, in 1973, Milburn Taylor Maupin was named chairman of school operations; and

WHEREAS, Milburn Taylor Maupin stayed in the forefront and was the first black president of the Louisville Education Association; and

WHEREAS, Milburn Taylor Maupin was instrumental in starting the first elementary school guidance program in Kentucky, the first full year Head Start Program for preschoolers, and the first after-hours use of school buildings for community programs; and

WHEREAS, the popular Milburn Taylor Maupin was elected Louisville's 1st Ward Alderman in 1977; and

WHEREAS, this educational pioneer retired in 1978 as Deputy Superintendent of Pupil Services in the county system; and

WHEREAS, Milburn Taylor Maupin's loving survivors include his wife, Madeline Taylor Maupin; daughters, Dr. Madeline M. Hicks and Jacqueline M. Tytus; his parents, Miller and Mary T. Maupin; brothers, Robert Maupin of Tacoma Park, Maryland, LaVaunt Maupin of St. Louis and W. Carlyle Maupin; sisters, Roslyn Anderson of Richmond, Virginia, Lolita McRoy of Kansas City, Missouri, and Idabeth Jacobs; and three grandchildren;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives extends its sincere sympathy to Mrs. Madeline Taylor Maupin and her family.

Section 2. That when the House adjourns this day, Tuesday, March 13, 1990, it does so in memory of Milburn Taylor Maupin.

Section 3. That the Clerk of the House send a copy of this resolution to Mrs. Madeline Taylor Maupin, 405 Bermuda Way, Louisville, Kentucky 40243.

**HR 203** was adopted by voice vote.

Representative Hancock moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative Hancock moved the adoption of the following a Legislative Citation No. 61. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Elbert Watts, Union Underwear plant manager, upon the occasion of your retirement. We commend you on your distinguished career and salute 41 years of loyal service.

This prestigious body joins Representative Hank Hancock in paying tribute to you, a man who has earned the respect and admiration of his employees. We extend our sincerest best wishes in your future endeavors.

Representative Deskins moved that the rules be suspended to introduce a Resolution. Agreed.

**HR 206**, by Representative Deskins: A RESOLUTION adjourning the House of Representatives in honor of Francis M. Burke.

Representative Deskins moved the adoption of the following **HR 206**:

**HR 206**, A RESOLUTION adjourning the House of Representatives in honor of Francis M. Burke.

WHEREAS, Francis M. Burke, a native of Pike County, Kentucky, was born on March 12, 1899; and

WHEREAS, Francis M. Burke completed his elementary education in Pike County, and labored in the coal mines until 1919; and

WHEREAS, Francis M. Burke, at the age of twenty in 1921, journeyed to Eastern Kentucky Teachers College in Richmond, Kentucky, without invitation or application, was accepted, and fulfilled the necessary requirements to obtain his teaching certificate; and

WHEREAS, a prerequisite for admission to the Jefferson School of Law was a high school diploma, and therefore, Francis M. Burke, after receiving his teaching certificate, returned to Pike County, attended Pikeville High School, and earned his high school diploma; and

WHEREAS, Francis M. Burke graduated from the Jefferson School of Law in Louisville, Kentucky in 1925; and

WHEREAS, Francis M. Burke, after holding the position of Assistant Attorney General from 1932 to 1935, returned to Pike County to establish his private law practice; and

WHEREAS, Francis M. Burke represented the 31st Senatorial District, and served his constituents well during the 1963 Special Session, and the 1968 and 1970 Regular Sessions of the Kentucky General Assembly; and

WHEREAS, Francis M. Burke retired from the practice of law in 1966 to pursue interests in the coal mining business, establishing the McCoy Elkhorn Coal Corporation; and

WHEREAS, Francis M. Burke, at the age of ninety-one, continues his coal mining interests, owning various coal properties statewide; and

WHEREAS, Francis M. Burke is the loving husband of Faye R. Burke; the devoted father of two children, Francis Dale Burke, and Barbara Burke Mueller; and the grandfather of four grandchildren, Kathryn Burke, Warren Burke Mueller, Roger Francis Burke, and Paul Frederick Burke;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this august body hails and commends Francis M. Burke for his years of dedicated service to the citizens of this Commonwealth, recognizing his contributions to be beyond measure and having a lasting impact in years to come.

Section 2. That when the House of Representatives adjourns this day, Wednesday, March 14, 1990, it does so in honor of Francis M. Burke.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Honorable Francis M. Burke, P.O. Box 2470, Pikeville, Kentucky 41501.

**HR 206** was adopted by voice vote.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

### Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Arnold moved that Floor Amendment No. 1 to **SB 136** be withdrawn. Agreed.

Representative Johnson moved that the three day posting requirement be waived on **HB 621**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

**HCR 205**, by Representatives A. Jones and B. Richardson: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to study the potential amendment of the Open Records Act.

**HCR 207**, by Representatives Siler, Ford and Keith: A CONCURRENT RESOLUTION urging the Secretary of the Transportation Cabinet to name Kentucky Route 2279 the Wilburn K. Ross Highway.

**HR 208**, by Representative Farrow: A RESOLUTION in honor of Ken Techau.

### Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **SB 333**.

Education: **HB 820**.

Appropriations and Revenue: **HB 5**, **HB 197**, **HB 938**.

State Government: **HB 863**, **HB 873**, **HB 930**, **HR 3**, **HCR 188**, **HB 190**, **HB 308**, **HB 607**, **HB 782**, **HB 804**, **HB 806**, **HB 835**, **SB 226**.

Health and Welfare: **SB 265**.

Cities: **SB 210**.

Business Organizations and Professions: **SB 321**.

Judiciary: **SCR 91**.

## Report of Committees

The Committee on Appropriations and Revenue reported **HB 126** with Committee Amendment attached thereto, **HB 492** with Committee Amendments attached thereto, and **HB 670** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 126** is as follows:

Amend printed copy of **HB 126** on page 2, line 1, by deleting the words "*Kentucky Commission for Handicapped Children*" and inserting in lieu thereof the words "*Department for Health Services, Cabinet for Human Resources*";

And on page 2, lines 6 and 7, by deleting the words "*commission, through its executive director*" and inserting in lieu thereof the words "*Department for Health Services, through its Commissioner*";

And on page 2, line 16, by deleting the word "*commission*" and inserting in lieu thereof the words "*designated Department for Health Services*";

And on page 2, line 18, by deleting the word "*executive director*" and inserting in lieu thereof the words "*Commissioner of the Department for Health Services*";

And on page 2, line 21, by deleting the word "*commission*" and inserting in lieu thereof the words "*designated Department for Health Services*";

And on page 3, line 2, by deleting the word "*commission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 3, line 4, by deleting the word "*commission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 3, line 9, by deleting the words "*executive director of the Commission*" and inserting in lieu thereof the words "*Commissioner of the Department for Health Services*";

And on page 3, line 17, by deleting the words "*executive director*" and inserting in lieu thereof the word "*Commissioner*";

And on page 3, line 18, by deleting the word "C*ommission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 3, line 21, by deleting the words "*executive director*" and inserting in lieu thereof the words "*Commissioner of the Department for Health Services*";

And on page 4, line 2, by deleting the word "*commission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 4, line 7, by deleting the word "*commission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 4, lines 8 and 9, by deleting the words "*executive director of the commission*" and inserting in lieu thereof the words "*Commissioner of the Department for Health Services*";

And on page 4, line 13, by deleting the word "*commission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 4, line 20, by deleting the word "*commission*" and inserting in lieu thereof the words "*Department for Health Services*";

And on page 4, line 22, by deleting the word "*commission*" and inserting in lieu the words "*Department for Health Services*";

And on page 4, line 26, by deleting line 26 in its entirety and inserting in lieu thereof the following new section:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

*"Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under this Act or who uses information provided under this Act in a manner other than that approved by the committee for the protection of human subjects pursuant to Section 4 of this Act may be denied*

***further access to any confidential information maintained under this Act by the Department for Health Services. That person shall also be subject to a civil penalty of five hundred dollars ($500). The penalty provided in this section shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the Department for Health Services."***

And on page 5, by deleting lines 1 through 26 in their entirety;

And on page 6, by deleting lines 1 through 3 in their entirety.

The Committee Amendment No. 3 to **HB 492** is as follows:

Amend printed copy of **HB 492** on page 2, lines 24 and 25, by deleting the words "***Public Protection and Regulation Cabinet***" and inserting in lieu thereof the words "***Cabinet for Human Resources***";

And on page 3, lines 5 and 6, by deleting the words "***Care Consumer Information***" and inserting the word "***Service***";

And on page 3, line 14, by deleting the word "***department***" and inserting in lieu thereof the word "***Division.***";

And on page 3, after line 26, by inserting "***(10) "Division" means the Division of Health Care Consumer Information within the Department of Health Services.***";

And on page 4, line 3, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 4, lines 5 and 6, by deleting the words "***commissioner of the department***" and inserting in lieu thereof "***Director of the Division***";

And on page 4, line 9, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 4, line 10, by deleting the word "***Commissioner***" and inserting in lieu thereof the word "***Director***";

And on page 4, line 16, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 5, line 18, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 6, line 6, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 7, line 3, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 7, line 10, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 7, line 25, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 8, line 13, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 9, lines 22 and 23, by deleting the words "***commissioner of the department***" and inserting in lieu thereof the words "***Director of the Division***";

And on page 10, lines 6 and 7, by deleting the words "***commissioner and the department***" and inserting in lieu thereof the words "***Director and the Division***";

And on page 10, line 13, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 10, line 26, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 11, line 1, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 11, line 2, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 11, line 4, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 11, line 6, by deleting the word "***department:***, and inserting in lieu thereof the word "***Division***";

And on page 11, line 7, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 11, line 13, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 11, line 21, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 12, line 5, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 12, line 10, by deleting the word "***department***" and inserting in lieu thereof the word "***Division***";

And on page 12, line 14, by deleting the word "***commission***" and inserting in lieu thereof the word "***Director***".

The Committee on Appropriations and Revenue reported **HB 634**, **HB 693** with Committee Substitute and Title Amendment attached thereto, **HCR 166** with Committee Amendment attached thereto, and **SB 174** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 634**, AN ACT relating to private activity bond allocation committee.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 103.286 is amended to read as follows:

(1) The Kentucky Private Activity Bond Allocation Committee is established. The purpose of the committee shall be to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of private activity bonds, as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of the bonds imposed by the Tax Reform Act of 1986, 26 U.S.C. sec. 146. The committee shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of ***the Cabinet for Finance and Administration*** [~~finance~~], who shall be chairman of the committee; the secretary of the ***Cabinet for Economic Development*** [~~commerce cabinet~~]; the state budget director; the executive director of the office for program administration; and the ***commissioner of the Department for Local Government*** [~~chairman of the industrial revenue bond oversight committee~~], or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of such bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

(a) ***For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the first seventy-five percent (75%) of the term shall be designated as a period in which*** [~~During the period of January 1 to September 30 of each year,~~] the committee shall provide that no less than sixty percent (60%) of the private activity cap be reserved for local bond issuance authorities.

(b) ***For*** [~~As of October 1 of~~] each calendar year, ***during the period in which the issuance of private activity bonds is authorized by the federal government, the last twenty-five percent (25%) of the term shall be designated by the committee as the period in which*** the remaining unallocated cap shall revert to a single pool to be allocated on a first-come, first-serve basis to state and local governments.

(3) The secretary of ***the Finance and Administration Cabinet*** [~~finance~~] shall promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of the bonds within the Commonwealth of Kentucky.

(4) No bonds governed by ***this section*** [~~KRS 103.286~~] shall be issued that are not in compliance with the state ceiling, subsections (2)(a) and (b) of this section or with the allocation, application or review procedures established by the secretary of ***the Finance and Administration Cabinet*** [~~finance~~].

**HB 693**, AN ACT relating to roads.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 177.060 is amended to read as follows:

(1) Except as otherwise provided in this section and in KRS 177.070, all cost of acquiring any necessary land or right-of-way for primary road purposes and all damages incurred shall be paid by the ***state*** [~~county~~].

(2) Temporary rights-of-way and private surfaced roads, other than those owned by the county, which are acquired for primary road purposes shall be paid for by the state.

(3) When a highway has been located by the department and a right-of-way procured by the ***state*** [~~county~~] and accepted by the department, any additional right of way required by the department as a result of a change in the highway may be acquired by the department and shall be paid for by the state unless it is a road owned by the county.

(4) The cost of acquiring right-of-way for initial construction of industrial access roads, state park access roads and other roads the construction of which would best serve the interests of the Commonwealth in promoting economic and industrial growth shall be paid by the state.

The Committee Substitute to **HB 693** is as follows:

**HB 693**, AN ACT relating to roads.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 177.060 is amended to read as follows:

(1) Except as otherwise provided in this section and in KRS 177.070, all cost of acquiring any necessary land or right-of-way for primary road purposes and all damages incurred ***may*** [~~shall~~] be paid by the ***state, local governments or private persons*** [~~county~~].

(2) Temporary rights-of-way and private surfaced roads, other than those owned by the county, which are acquired for primary road purposes shall be paid for by the state.

(3) When a highway has been located by the department and a right-of-way procured by the ***state, local governments or private persons*** [~~county~~] and accepted by the department, any additional right of way required by the department as a result of a change in the highway may be acquired by the department and shall be paid for by the state unless it is a road owned by the county.

(4) The cost of acquiring right-of-way for initial construction of industrial access roads, state park access roads and other roads the construction of which would best serve the interests of the Commonwealth in promoting economic and industrial growth shall be paid by the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

***(1) There is created a commission to review and recommend cooperative and innovation road and bridge construction or maintenance projects between two (2) or more units of local government. The commission shall receive and review road and bridge projects submitted on behalf of local governments and recommend that the Department of Highways participate in matching funds in an amount not to exceed fifty percent (50%) of the total project cost. For administrative purposes, the commission shall be attached to the Kentucky transportation center established pursuant to KRS 177.375 to 177.380. Staff of the center shall assist in the formulation of policies and procedures to implement the provisions of this Act.***

***(2) Eligible road or bridge projects shall occur as a result of an agreement between two (2) or more units of local governments and may include such projects as consolidation of local highway departments, purchase of equipment on a cooperative basis, cost sharing on any road construction or maintenance project, cost sharing on any bridge construction or maintenance project, or any type of project which the commission would deem to encourage cooperation or merging of highway programs or projects between two (2) or more units of local government.***

***(3) Upon receipt of a recommendation of a road project from the commission, the secretary shall ensure that up to fifty percent (50%) of the project cost is set aside from the funds prescribed in KRS 177.320(1) to match the local participation of said project. The commission shall not recommend a total number of projects which exceed the state appropriation for any fiscal year.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

***The commission shall review and judge projects for approval based on the following criteria:***

***(1) The level of cooperation between local units of government including such factors as:***

***(a) Number of participating local units of government;***

***(b) Length of time that any cooperative agreement will remain in effect;***

***(c) Equity involved in the project for each local government;***

***(d) Amount of local support from each local entity; and***

***(e) Combination of services employed in the project including contributions of funds, personnel, machinery and materials.***

***(2) The innovation of the project being proposed to include the following:***

***(a) Originality of the service or project to be performed;***

***(b) Effectiveness of the project to the local communities and as it might promote additional cooperation between local units of government; and***

*(c) Need for the project.*

*(3) A cost and benefit analysis of the project to be undertaken including:*

*(a) Ability of the local government to support the proposed project;*

*(b) The financing options which are being considered by the affected units of local government; and*

*(c) Overall financial merit of the project.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

*(1) Membership of the commission established by Section 2 of this Act shall include the following:*

*(a) State highway engineer;*

*(b) Deputy secretary for rural roads;*

*(c) Commissioner of the Department of Local Government;*

*(d) Dean of the College of Engineering at the University of Kentucky or his appointed designee;*

*(e) Dean of the College of Engineering at the University of Louisville or his appointed designee; and*

*(f) Executive director of the area development district who serves as chairman of the transportation committee for the directors.*

*(2) Meetings of the board shall be called as needed to review any project which may qualify for approval under Section 2(2) of this Act.*

*(3) The secretary of transportation shall appoint the chairman of the commission. Members shall serve without compensation. Four (4) members shall constitute a quorum for doing business.*

Section 5. There is hereby appropriated from the rural secondary road fund established pursuant to KRS 177.320(1) six hundred thousand dollars ($600,000) for fiscal year 1990-1991 and six hundred thousand dollars ($600,000) for fiscal year 1991-1992 for the sole purpose of matching local funds for projects approved by the commission.

The Committee Title Amendment to **HB 693** is as follows:

Amend printed copy of **HB 693** by amending the title to read: "AN ACT relating to roads and making an appropriation therefor."

**HCR 166,** A CONCURRENT RESOLUTION establishing a task force to study the foundation programs for law enforcement officers and firefighters.

WHEREAS, it is the intention of the General Assembly that law enforcement and fire protection in the Commonwealth be continually strengthened, upgraded and attractive to competent, highly qualified men and women who choose law enforcement or firefighting as a profession; and

WHEREAS, it is the intention of the General Assembly that qualified and experienced law enforcement officers and firefighters be retained by their employers to provide maximum protection and safety to the citizens of, and visitors to, this Commonwealth; and

WHEREAS, it is the intention of the General Assembly that the state continue to offer a monetary supplement for local law enforcement officers and firefighters, while upgrading their educational and training standards;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That a Task Force on Foundation Programs be created consisting of fifteen (15) members appointed by the Legislative Research Commission, including two (2) members of the Senate, three (3) members of the House of Representatives, one (1) representative of the Fraternal Order of Police, one (1) member of the Kentucky Law Enforcement Council, one (1) member of the Kentucky Firefighters Association, one (1) member of the Kentucky Professional Firefighters, one (1) member of the Commission on Fire Protection Personnel Standards and Education, one (1) mayor of a Kentucky city, one (1) judge/executive of a Kentucky county, one (1) representative of organized labor, and two (2) citizens-at-large.

Section 2. The task force shall study the Law Enforcement Foundation Program Fund and the Professional Firefighters Foundation Program Fund, analyzing a wide range of issues pertaining to the funds, including, but not limited to, the funding sources and collection processes for the funds, administration of the funds, requirements for participation in the funds, methods of disbursing supplemental payments to participants, purposes for which assistance by the funds may be used, and the rate of assistance paid to local communities by the funds. The task force may cause to be conducted an actuarial analysis of each fund and may make recommendations for expenditure of money collected by the funds.

Section 3. The task force shall hold its first meeting no later than September 30, 1990. It shall select a chairman and other officers it deems necessary. Members shall receive no compensation, but members not otherwise reimbursed shall be reimbursed for their necessary and reasonable expenses by the Legislative Research Commission.

Section 4. The task force shall report its findings, recommendations and any suggested legislation to the Legislative Research Commission no later than July 1, 1991.

Section 5. Staff services to be utilized in completed this study are estimated to cost $25,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to **HCR 166** is as follows:

Amend printed copy of **HCR 166** on page 1, line 2, delete "fifteen (15)" and insert in lieu thereof "seventeen (17)"

On page 2, line 5, after "Council," insert the following: "two (2) members of the Kentucky Sheriffs' Association,".

**SB 174**, AN ACT relating to revenue and taxation.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, ***shall*** [~~do~~] not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(9) Machinery for new and expanded industry;

(10) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of ***the*** [~~such~~] machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(11) Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies and repair and replacement parts purchased for use in the operation or maintenance of ***the*** [~~such~~] facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1991;

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of ***the*** [~~such~~] facilities;

(14) ***On farm facilities used exclusively for raising chickens. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilaton systems, alarm systems and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts and any materials incorporated into the construction, renovation, or repair of the facilities.***

***(15)*** Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

***(16)***[~~(15)~~] Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but ***shall*** [~~does~~] not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

***(17)***[~~(16)~~] Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

***(18)***[~~(17)~~] Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use ***shall*** [~~will~~] not subject the property to the taxes imposed by this chapter;

***(19)***[~~(18)~~] Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

***(20)***[~~(19)~~] Any property to be incorporated into the construction, rebuilding, modification or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1991; and

***(21)***[~~(20)~~] Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States department of agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program.

The Committee on Appropriations and Revenue reported **HB 346, HB 802, SB 41, SB 297** and **SB 298** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 346,** AN ACT relating to sales and use tax.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(9) Machinery for new and expanded industry;

(10) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(11) Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies and repair and replacement parts purchased for use in the operation or maintenance of such facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, ***1992*** [~~1991~~];

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(14) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(15) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(16) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(17) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter;

(18) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(19) Any property to be incorporated into the construction, rebuilding, modification or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, ***1992*** [~~1991~~]; and

(20) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States department of agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program.

**HB 802,** AN ACT relating to the rights of taxpayers.

WHEREAS, the General Assembly finds and declares that taxes are one of the most sensitive points of contact between citizens and the Commonwealth;

WHEREAS, there is a delicate balance between vigorous tax collection and taxpayer rights;

WHEREAS, it is the intent of the General Assembly to establish guarantees to ensure that the rights, privacy and property of Kentucky taxpayers are adequately protected during the process of assessing and collecting Kentucky taxes;

WHEREAS, the General Assembly finds that the Kentucky tax system is based largely on voluntary compliance by taxpayers and that development of understandable laws, regulations, and informational publications will improve both voluntary compliance and the relationship between taxpayers and the Revenue Cabinet; and

WHEREAS, it is further the intent of the General Assembly to promote voluntary tax compliance by improving the clarity of Kentucky's tax laws and efforts to inform the public of the proper application of those laws;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context requires otherwise:***

***(1) "Taxpayer's rights advocate" means the person appointed by the secretary of revenue to carry out the administrative functions and responsibilities relating to the Office of Taxpayers' Rights Advocacy created pursuant to this Act.***

***(2) "Taxpayer representative" means any attorney, tax practitioner or other person designated by a taxpayer to represent him before the cabinet in any matter relating to taxes administered by the cabinet.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

***In addition to all other rights or privileges afforded Kentucky taxpayers, and notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the provisions of this Act shall apply with regard to all taxes administered by the Revenue Cabinet.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created and established within the Revenue Cabinet an Office of Taxpayers' Rights***

*Advocacy to be staffed with a taxpayers' rights advocate and such other support personnel as may be deemed necessary to carry out the spirit and the specific purposes of this Act. For administrative and budgetary purposes, the Office of Taxpayers' Rights Advocacy shall be attached to the office of the secretary of revenue.*

*(2) The taxpayers' rights advocate shall be a person with no less than ten (10) years of tax administration experience at a supervisory or management level and who possesses a broad general knowledge of the tax laws, regulations, systems and procedures administered or utilized by the cabinet.*

*(3) The taxpayers' rights advocate shall:*

*(a) Coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or his representative.*

*(b) Provide recommendations to the cabinet for new or revised informational publications and recommend taxpayer and cabinet employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance.*

*(c) Provide recommendations to the cabinet for simplification or other improvements needed in tax laws, regulations, forms, systems and procedures to promote better understanding and voluntary compliance by taxpayers.*

*(d) At least annually, on or before October 1, prepare and submit a report to the secretary of the Revenue Cabinet summarizing the activities of the Office of Taxpayers' Rights Advocacy during the immediately preceding fiscal year describing any recommendations made pursuant to paragraphs (b) and (c) of this subsection, including the progress in implementing such recommendations, and providing such other information as the taxpayers' rights advocate deems appropriate relating to the rights of Kentucky taxpayers.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

*The following rules, principles or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Revenue Cabinet.*

*(1) The cabinet shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups and cabinet employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.*

*(2) The cabinet shall publish brief statements in simple and nontechnical language which explain procedures, remedies and the rights and obligations of taxpayers and the cabinet. Such statements shall be provided to taxpayers with the initial notice of audit, each original notice of tax due, each denial or reduction of a refund or credit claimed by a taxpayer, each denial, cancellation or revocation of any license, permit or other required authorization applied for or held by a taxpayer, and, if practical and appropriate, in informational publications by the cabinet distributed to the public.*

*(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant or other person in any conference, hearing or other matter before the cabinet. The taxpayer shall be informed of such right prior to conduct of any conference or hearing.*

*(4) The cabinet shall perform audits and conduct conferences and hearings only at reasonable times and places.*

*(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the cabinet. The cabinet may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of such cabinet recording or a transcript thereof as provided in KRS 61.874.*

*(6) If any taxpayer's failure to submit a timely return or payment to the cabinet is due to the taxpayer's reasonable reliance on written advice from the cabinet, the taxpayer shall be relieved of any penalty or interest with respect thereto provided the taxpayer requested such advice in writing from the cabinet and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the cabinet did not subsequently rescind or modify the advice in writing and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the cabinet's earlier written advice no longer valid.*

*(7) Taxpayers shall have the right to receive a copy of any audit of the cabinet by the Auditor of Public Accounts relating to the cabinet's compliance with the provisions of this Act.*

***(8) The cabinet shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty and interest assessed against the taxpayer. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.***

***(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties and interest owed provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the cabinet of the amounts owed. The cabinet may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The cabinet shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the cabinet has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.***

***(10) The cabinet shall not knowingly authorize, require or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Revenue Cabinet personnel.***

***(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the cabinet thereof in writing and provides a copy of such extension at the time and in the manner which the cabinet may require.***

***(12) The cabinet shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the cabinet, provided the erroneous lien or levy was caused by cabinet error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the cabinet and provided information or documentation sufficient to establish his or her position. When the cabinet releases any such erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation thereof, shall be mailed to the major credit reporting companies located in the county where it was filed.***

***(13) The cabinet shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.***

***(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth in Franklin Circuit Court for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless and intentional disregard by cabinet employees of the rights of taxpayers as set out in this Act or in the tax laws administered by the cabinet. If an action which could be brought against the Commonwealth of Kentucky under this section is brought against any officer or employee of the Commonwealth of Kentucky or former officer or employee or his personal representative, the court shall order, upon such terms as are just, that the pleadings be amended to substitute the Commonwealth of Kentucky as a party for the officer or employee as of the time the action was commenced. In the awarding of damages pursuant to this subsection, the court shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any such proceeding brought by a taxpayer is ruled frivolous by the court, the cabinet shall be reimbursed by the taxpayer for its costs in defending the action.***

***(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any information or documents attached thereto. Except as provided by KRS 131.190, no information pertaining to such returns, reports or the affairs of a person's business shall be divulged by the cabinet to any person.***

Section 5. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The secretary of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) [~~Except for the provisions of KRS 141.044(2) and KRS 141.235(3),~~] Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at [~~a rate equal to 75% of~~] the rate provided in subsection (1) above. ***Except for the provisions of KRS 141.044(2) and 141.235(3),*** interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5.00).

Section 6. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the Revenue Cabinet as provided by the laws of the Commonwealth and if such person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if such person has sought but exhausted all administrative and judicial review so that the assessment is final, due and owing, then the secretary of revenue or his delegate may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for ***thirty (30)*** [~~ten (10)~~] days after the demand, then the secretary or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to such person or on which there is a lien provided by KRS 134.420, except such property as is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest and cost of the levy.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the secretary or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The secretary or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. Such notice shall be published once each week for three (3) successive weeks. In addition, such notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the secretary or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest and cost of the levy, the whole of such property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the secretary or his delegate may offer such items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The secretary or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the secretary or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the secretary, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of such readvertisement and sale, any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(8) If the secretary or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and, if the owner of the property can be readily found, the secretary or his delegate shall give him notice of such determination of the appraised value of the property.

The property shall be returned to the owner if, within such time as may be specified in the notice, the owner pays to the secretary or his delegate an amount equal to the appraised value, or gives bond in such form, with such sureties, and in such amount as the secretary or his delegate determines to be appropriate in the circumstances. If the owner does not pay such amount or furnish such bond in accordance with this subsection, the secretary or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than five (5) years after the assessment becomes final.

(10) The term "levy" as used in this section includes the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or his delegate may levy upon property or rights to property, he may seize and sell such property or rights whether real, personal, tangible or intangible.

Section 7. KRS 134.580 is amended to read as follows:

(1) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the Revenue Cabinet shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, ***of*** [~~or~~] any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the cabinet and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the cabinet, the taxpayer may pay the amount claimed by the cabinet to be due, and if an appeal is taken by the taxpayer from the ruling of the cabinet within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the cabinet shall authorize such refund or credit as the Kentucky Board of Tax Appeals or courts may direct.

(2) [~~In the event refunds or credits result from clerical error of the cabinet or its agents, but not otherwise,~~] Refunds or credits shall be authorized with interest ***as provided in KRS 131.183*** [~~at the tax interest rate as defined in KRS 131.010(6)~~]. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(3) Nothing in this section shall be construed to authorize the cabinet to make or cause to be made any refund except within four (4) years ***of the due date of the return or*** [~~from~~] the date the money was paid into the State Treasury***, whichever is the later, except that, in any case where the assessment period has been extended by written agreement between the taxpayer and the cabinet, the limitation contained in this subsection shall be extended accordingly***. Nothing in this section shall be construed as requiring the cabinet to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the cabinet the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(4) The terms "overpayment" and "payment where no tax was due" as used in this section shall be construed as referring to tax liability under the terms of the applicable statute without reference to the constitutionality of the statute. It is not intended that this section shall apply to any case wherein the statute may be held unconstitutional, either in whole or in part.

(5) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

***The provisions of this Act shall be known and may be cited as the "Kentucky Taxpayers' Bill of Rights."***

**SB 41,** AN ACT relating to cancer and making an appropriation related thereto.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby finds and declares that the incidence of breast cancer in women in this state is a significant health problem which can and should be reduced through early detection and treatment. It is the intent of the General Assembly to provide breast cancer screening where it is not otherwise readily available for reasons of cost or distance to suitable health care facilities. The General Assembly further declares that the establishment of a Cancer Registry and funding of a Cancer Patient Data Management System will provide health care practitioners, hospitals and governmental agencies with up-to-date and reliable information regarding the incidence of cancer in Kentucky and the outcome of efforts to improve the diagnosis and treatment of cancer in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 2 through 4 of this Act:*

*(1) "Asymptomatic" means exhibiting no symptoms or sign of breast cancer.*

*(2) "Department" means the Department for Health Services of the Cabinet for Human Resources.*

*(3) "Fund" means the Breast Cancer Screening Fund.*

*(4) "Screening" means the conduct of screening mammography for the purpose of ascertaining the existence of any physiological abnormality which might be indicative of the presence of disease. "Screening" shall not include any testing or examination for purposes of diagnosis or treatment.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

*There is hereby established within the department a Breast Cancer Screening Fund. Funds appropriated for the purpose of the fund and any gifts or federal grants shall be deposited in the state treasury to the credit of a trust or agency fund to be used for the purposes of Section 4 of this Act and shall not lapse.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby established within the department a breast cancer screening program for the purpose of making breast cancer screening services available to women of all income levels throughout the Commonwealth and to women whose economic circumstances or geographic location limits access to breast cancer screening facilities.*

*(2) Services provided under the breast cancer screening program may be undertaken by private contract for services or operated by the department and may include the purchase, maintenance and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening for asymptomatic women. The program may also provide a referral service for the benefit of women for whom further examination or treatment is indicated by the breast cancer screening.*

*(3) The department may adopt a schedule of income-based fees to be charged for the breast cancer screening. The schedule shall be determined to make screening available to the largest possible number of asymptomatic women. The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under Sections 2 through 4 of this Act and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.*

*(4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of Sections 2 through 4 of this Act.*

*(5) For the purpose of developing guidelines for the services of the breast cancer screening program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for Health Services which shall include the directors of the James Graham Brown Cancer Center and the Lucille Parker Markey Cancer Center and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.*

*(6) The commissioner of the Department for Health Services shall biennially, but no later than July 1 of the respective year, make a report to the Governor and to the Legislative Research Commission on the implementation and outcome from the breast cancer screening program.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby established within the Kentucky cancer program the Kentucky cancer registry and the cancer patient data management system for the purpose of providing accurate and up-to-date information about cancer in Kentucky and facilitating the evaluation and improvement of cancer prevention, screening, diagnosis, therapy, rehabilitation, and community care activities for citizens of the Commonwealth. The cancer patient data management system shall be administered by the University of Kentucky Markey Cancer Center.*

*(2) Each acute care hospital or other facility licensed under KRS Chapter 216 and providing treatment to cancer patients shall report to the cancer registry, through the cancer patient data management system and in a format prescribed by the cancer registry, each case of cancer seen at that hospital or facility. Failure to comply may be cause for assessment of an administrative fine for the hospital or facility, the same as for violation of KRS 216B.250.*

*(3) Each hospital and cancer treatment facility shall grant to the cancer registry access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the*

***cancer, or status of any identified cancer patient. Hospitals actively participating and enrolled in the cancer patient data management system of the Kentucky cancer program as of the effective date of this Act shall be considered to be in compliance with Section 5 of this Act. The University of Kentucky Markey Cancer Center shall provide staff assistance in compiling and reporting required information to hospitals which treat a low volume of patients.***

***(4) No liability of any kind or character for damages or other relief shall arise or be enforced against any hospital by reason of having provided such information or material to the cancer registry.***

***(5) The identity of any person whose condition or treatment has been reported to the cancer registry shall be confidential, except that:***

***(a) The cancer registry may exchange patient specific data with any other cancer control agency or clinical facility for the purpose of obtaining information necessary to complete a case record, but the agency or clinical facility shall not further disclose such personal data; and***

***(b) The cancer registry may contact individual patients if necessary to obtain follow-up information which is not available from the hospital or treatment facility.***

***(6) All information, interviews, reports, statements, memoranda, or other data furnished by reason of Section 5 of this Act and any findings or conclusions resulting from those studies shall be privileged.***

***(7) The cancer registry shall make periodic reports of its data and any related findings and recommendations to the Legislative Research Commission, the Governor, the Cabinet for Human Resources, the reporting hospital and other appropriate governmental and non-governmental cancer control agencies whose intent it is to reduce the incidence, morbidity, and mortality of cancer. The cancer registry may conduct analyses and studies as are indicated to advance cancer control in the Commonwealth.***

Section 6. The following KRS sections are repealed:

214.500 State policy for cancer prevention and reduction.

214.510 Kentucky cancer commission created — Members — Expenses — Meetings — Staff.

214.520 Powers and duties of commission.

214.530 Cancer commission trust fund — Use — Nonlapsing of surplus funds.

Section 7. (1) For the purpose of implementing Sections 2 through 4 of this Act, there is hereby appropriated to the Cabinet for Human Resources, Department for Health Services from the general fund for the fiscal year beginning July 1, 1990, the sum of two hundred fifty thousand dollars ($250,000) and for the fiscal year beginning July 1, 1991, the sum of two hundred and fifty thousand dollars ($250,000).

(2) For the purpose of implementing Section 5 of this Act, there is hereby appropriated to the University of Kentucky Markey Cancer Center from the general fund for the fiscal year beginning July 1, 1990, the sum of three hundred thirty thousand dollars ($330,000) and for the fiscal year beginning July 1, 1991, the sum of one hundred ninety thousand dollars ($190,000).

SB 297, AN ACT relating to investment of excess cash by the State Investment Commission.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 42.500 is amended to read as follows:

(1) There shall be a state investment commission composed of the Governor who shall be chairman, the state treasurer who shall be vice-chairman and serve as chairman in the absence of the Governor, the secretary of the finance and administration cabinet, and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) Three (3) members of the commission shall constitute a quorum. Any three (3) members of the commission may call a meeting.

(5) The provisions of KRS 61.070 shall not apply to members of the commission.

(6) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:

1. U.S. Treasury;

2. Export-Import Bank of the United States;

3. Farmers Home Administration;

4. ***Government*** [~~Governmental~~] National Mortgage Corporation; and

5. Merchant Marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;

2. Federal Farm Credit banks;

a. Bank for cooperatives;

b. Federal Intermediate Credit banks;

c. Federal land banks;

3. Federal Home Loan banks;

4. Federal National Mortgage Association; and

5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency; [~~and~~]

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency***; and***

***(g) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (6) of this section, each of which shall have the following characteristics:***

***1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended; and***

***2. The management company of the investment company shall have been in operation for at least five (5) years; and***

***3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section.***

(7) ***The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds and the regulations shall specify:***

***(a) The long and short term goals of any investment;***

***(b) The specification of moneys to be invested;***

***(c) The amount of funds which may be invested per instrument;***

***(d) The qualifications of instruments; and***

***(e) The acceptable maturity of investments.***

*(8)* Interest earned from investments made pursuant to this section shall accrue to the credit of the surplus account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed, and interest earned from the investment of moneys appropriated to the capital construction fund and its accounts shall accrue to the capital construction surplus account of the capital construction fund.

*(9)*[~~(8)~~] The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

*(10)*[~~(9)~~] The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the regulations mandated by KRS 42.525.

*(11)*[~~(10)~~] Each member of the State Investment Commission shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the state treasurer.

Section 2. KRS 56.520 is amended to read as follows:

(1) The commission may issue and sell revenue or other authorized bonds, in carrying out the provisions of this chapter, in denominations and amounts, as is deemed to be for the best interest of the Commonwealth, for any of the following purposes:

(a) To acquire real estate for state governmental use;

(b) To pay all or any part of the expense or cost of or incidental to a building project for state governmental use;

(c) To defray the cost of plans, specifications, blueprints, architectural fees and other expenses authorized to be incurred for state governmental use.

(2) The payment of bonds issued, together with the interest thereon, may be secured by a pledge and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Neither the payment of any bond, nor the interest thereon issued under the authority of KRS Chapter 56, shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any bond or interest thereon be payable out of any fund except funds derived from rentals or other revenues derived from the operation of the properties or from revenues as are available for the purpose by law.

(3) All competitive bids for the sale of revenue bonds shall be opened and read publicly by the secretary of the finance and administration cabinet or his representative at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(4) In the event the commission issues and sells bonds for a building project as authorized by KRS Chapter 56, insurance, including fire and windstorm, casualty, catastrophe, use and occupancy and such other insurance as the commission may deem advisable, shall be carried in connection with the building project, and it may so obligate and bind itself in a trust indenture securing the payment of the bonds. Any insurance shall be paid for out of funds available for the project.

(5) As provided in KRS 42.500*(11)*[~~(10)~~], the commission may invest proceeds from the sale of its revenue or other authorized bonds as follows:

(a) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;

(b) Obligations of the federal financing bank, the federal farm credit bank, the bank for cooperatives, the federal intermediate credit bank, the federal land banks, the federal home banks, the federal home loan mortgage corporation, the federal national mortgage association, the government national mortgage association, the federal housing administration, the farmer's home administration, the United States Postal Services;

(c) Obligations for the Commonwealth of Kentucky;

(d) Bonds and notes of any state or local government or public authority;

(e) Savings certificates issued by any federal savings and loan association if any principal amount of the certificate in excess of the amount insured by the federal government or any agency thereof, is fully collateralized;

(f) Prime quality commercial paper bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, if the accepting bank or its holding company is either incorporated in the Commonwealth of Kentucky or has outstanding publicly held obligations bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations;

(h) Participating share in a mutual fund for local government investment;

(i) A commingled investment pool established and administered under KRS 66.480;

(j) Evidences of ownership of or fractional undivided interests in future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian;

(k) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States or entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a federal reserve bank, or any commercial bank, trust company or national banking association, the deposits of which are insured by the federal deposit insurance corporation or any successor thereof if:

1. Such obligations that are subject to the repurchase agreement are delivered in physical or in book entry form to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a safekeeping receipt issued by a depository satisfactory to the local government or public authority. The repurchase agreement shall provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;

2. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedure, conforming to the extent practicable with federal regulations and satisfactory to the local government or public authority, have been established for the benefit of the local government or public authority or its assignee;

3. The securities are free and clear of any adverse third party claims; and

4. The repurchase agreement is in a form satisfactory to the local government or public authority; and

(l) Guaranteed investment contracts with a bank or insurance company, if the bank or insurance company bears one (1) of the two (2) highest ratings of at least one (1) nationally recognized rating service and does not bear a rating below one (1) of the two (2) highest ratings by any nationally recognized rating service.

**SB 298**, AN ACT relating to state investment income.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman, the State Treasurer who shall be vice-chairman and serve as chairman in the absence of the Governor, the secretary of the Finance and Administration Cabinet, and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) Three (3) members of the commission shall constitute a quorum. Any three (3) members of the commission may call a meeting.

(5) The provisions of KRS 61.070 shall not apply to members of the commission.

(6) The commission shall have authority and may, if in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:

1. U.S. treasury;

2. Export-import bank of the United States;

3. Farmers Home Administration;

4. ***Government*** [~~Governmental~~] National Mortgage Corporation; and

5. Merchant Marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;

2. Federal Farm Credit Banks;

a. Bank for cooperatives;

b. Federal intermediate credit banks;

c. Federal land banks;

3. Federal home loan banks;

4. Federal National Mortgage Association; and

5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency; and

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.

(7) ***Income*** [~~Interest~~] earned from investments made pursuant to this section shall accrue to the credit of the ***investment income*** [~~surplus~~] account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed, and ***except as otherwise provided by law or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues,*** interest earned from the investment of moneys appropriated to the capital construction [~~fund and its~~] accounts***, trust and agency accounts, and trust and agency revolving accounts,*** shall accrue to the capital construction ***investment income*** [~~surplus~~] account [~~of the capital construction fund~~]. ***If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130 the secretary of the Finance and Administration Cabinet, upon the recommendation of the State Budget Director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly,***

***the secretary of the Finance and Administration Cabinet may, upon recommendation of the State Budget Director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.***

(8) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(9) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the regulations mandated by KRS 42.525.

(10) Each member of the State Investment Commission, ***with the exception of the Governor,*** shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

The Committee on Appropriations and Revenue reported **HB 3** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules as a Consent Bill.

The Committee on Economic Development and Tourism reported **HB 816**, **HB 881**, **SB 169** with Committee Amendment attached thereto, **HCR 182**, **HCR 186**, **SB 178** and **SB 275** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 816**, AN ACT relating to outdoor advertising devices and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 through 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 through 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of ***the*** Transportation ***Cabinet***. Each side of the highway will be considered separately in applying this definition

— all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than 300 feet from the nearest edge of the right of way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings.

(10) "Urban areas" means those areas ***having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars ($5.00)*** [~~which the secretary of transportation, in the exercise of his sound discretion and upon consideration being given to the population within boundaries of an area and to the traveling public, determines by official order to be urban; provided, however, that any such determination or designation of the secretary shall not, in any way, be at variance with the federal law or regulation thereunder or jeopardize the allotment or qualification for federal-aid funds of the Commonwealth of Kentucky~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

***Subsection (10) of Section 1 of this Act in conjunction with the prohibition of KRS 177.841(2) shall extend to all applicable outdoor advertising devices erected after January 1, 1976, unless previously determined by a court of competent jurisdiction to be in compliance with the laws, regulations and rules governing outdoor advertising devices or were situated in an area which was authorized by an existing or previous statute.***

Section 3. KRS 177.867 is amended to read as follows:

(1) The commissioner of ***the Department of*** Highways is authorized to acquire by purchase, gift, or condemnation pursuant to the Eminent Domain Act of Kentucky and shall pay just compensation upon the removal of the following advertising devices:

(a) Those lawfully in existence on October 22, 1965;

(b) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968;

(c) Those lawfully erected on or after January 1, 1968; [~~and~~ ]

(d) Those lawfully in existence on January 1, 1976***; and***

***(e) Those lawfully erected or maintained, or both, between January 1, 1976 and December 31, 1989.***

(2) Compensation shall be paid for the following:

(a) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

(b) The taking from the owner of the real property on which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

Section 4. The General Assembly, finding that the receipts of moneys from the United States Government may be substantially lost if this statute is not promptly enacted, that outdoor advertising would be significantly unregulated further jeopardizing qualification for federal funds, and further that an emergency therefore exists, hereby declares that this statute shall take effect immediately upon enactment and approval by the Governor.

**HB 881,** AN ACT relating to business incentives for neighborhood assistance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 98B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***This chapter may be cited as the "Business Incentives for Kentucky Families Act."***

SECTION 2. A NEW SECTION OF KRS CHAPTER 99B IS CREATED TO READ AS FOLLOWS:

***It is hereby declared to be the public policy of the Commonwealth of Kentucky to encourage investment by business firms in offering neighborhood assistance and providing education, crime prevention, and community services and to encourage contributions by business firms to neighborhood organizations which offer and provide such assistance and services, including housing rehabilitation and construction.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 99B IS CREATED TO READ AS FOLLOWS:

***As used in this chapter unless the context otherwise requires:***

***(1) "Economically-disadvantaged neighborhood" means any neighborhood in a Kentucky county which has been certified by the county judge/executive of the county or his designee or the chief executive officer of an urban-county government or his designee, and approved by the secretary of human resources to have:***

***(a) A continuous boundary;***

***(b) Pervasive poverty, unemployment, and economic distress;***

***(c) One (1) or more of the following at rates higher than the county average:***

***1. Dependence upon public assistance;***

***2. Disease;***

***3. Infant mortality;***

***4. School dropouts;***

***5. Overcrowded, unsanitary, or inadequate housing; and***

***6. Crime and delinquency.***

***(2) "Business firm" means any firm or corporation doing business in the state of Kentucky and subject to the state income tax as imposed by the provisions of KRS Chapter 141, or an insurance company or financial institution subject to the state taxes imposed by various provisions of KRS Chapter 136.***

***(3) "Tax credit" means a credit against any corporate income tax due from a business firm in an amount which shall not exceed fifty percent (50%) of the total amount invested during the taxable year by the business firm. In no case shall any business firm receive a tax credit for any investment under this Act of more than two hundred fifty thousand dollars ($250,000) in any tax year. Any tax credit not used in the period that the investment was made may be carried over for the next five (5) succeeding years.***

***(4) "State limit" means the total amount of tax credits granted to business firms for investments under this Act on a first come basis and may not exceed one million five hundred thousand dollars ($1,500,000) in the first fiscal year, which may be increased by five hundred thousand dollars ($500,000) in the next fiscal year until the total tax credits granted reach two million dollars ($2,000,000).***

***(5) "Neighborhood organization" means any organization performing community services, offering neighborhood assistance, education, or crime prevention in an economically-disadvantaged neighborhood and:***

***(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code; or***

***(b) Incorporated in the state of Kentucky as a non-profit organization.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 99B IS CREATED TO READ AS FOLLOWS:

***Any business firm which engages in the activities of providing neighborhood assistance, education for individuals, community services, or crime prevention or contributes to a neighborhood organization which engages in the same activities in an economically-disadvantaged neighborhood shall be eligible to receive a tax credit.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 99B IS CREATED TO READ AS FOLLOWS:

***(1) The secretary of the Revenue Cabinet shall grant a tax credit to a business firm when the following requirements have been met:***

***(a) The investment proposal has been approved in writing by the county judge/executive of the county or his designee or the chief executive officer of an urban-county government or his designee;***

***(b) The investment will be made in an economically-disadvantaged neighborhood which has been certified by the county judge/executive of the county or his designee or the chief executive officer of an urban-county government or his designee, and approved by the secretary of human resources; and***

***(c) The tax credit is within the state limit.***

***(2) The secretary of the Revenue Cabinet shall certify the tax credit or deny the credit with appropriate documentation in writing within thirty (30) days of receipt of the approved proposal.***

***(3) The tax credits which are granted shall be on a first come basis and the secretary of the Revenue Cabinet shall document the date and time of receipt of approved proposals. Each proposal shall be considered in the order in which it is received until the state limit is met.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 99B IS CREATED TO READ AS FOLLOWS:

***(1) The county judge/executive of the county or his designee or his chief executive officer of an urban-county government or his designee shall submit for approval a description of each economically-disadvantaged neighborhood to the secretary of human resources. The secretary of human resources shall then submit the approved proposal to the secretary of the Revenue Cabinet for certification.***

***(2) The secretary of the Revenue Cabinet shall maintain for each tax year:***

***(a) A current list of the amount of each approved tax credit, the name of the business firm which received the credit, and the location of the economically-disadvantaged neighborhood served; and***

***(b) A current list of the total amount of tax credits available within the state limit.***

***(3) The information in subsections (1) and (2) of this section shall be open and available to the public.***

**SB 169,** AN ACT relating to tourist and convention commissions.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 91A.350 is amended to read as follows:

(1) For the purpose of promoting convention and tourist activity in counties containing cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish tourist and convention commissions.

(2) For the purpose of promoting [~~recreational,~~] convention and tourist activity in counties containing cities other than cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish [~~recreational,~~] tourist and convention commissions.

(3) For the purpose of promoting convention and tourist activity in two (2) or more counties, such counties may jointly establish [~~recreational,~~] tourist and convention commissions.

(4) For the purpose of promoting recreational, convention and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide such boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize such boards to build and issue bonds for facilities located on leasehold and permithold land.

The Committee Amendment No. 1 to **SB 169** is as follows:

Amend printed copy of **SB 169** on page 1, line 17 after "(4)" and before the word "For", insert the following:

***"Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to the effective date of this Act at a level no greater than that provided by the commission in the 1990 fiscal year. (5)"***

On page 2, line 3 after the "." insert the following:

Section 2. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission for the ensuing year. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations businesses. ***In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center.*** A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations businesses. Provision shall be made for the collection of the tax and the enforcement of the tax measure enacted.

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax may not be used to provide a subsidy in any form to any hotel, motel or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year in which the money is borrowed. The commission may pledge its securities to secure the repayment of any sum so borrowed.

(4) The fiscal court or legislative body of a city which establishes a commission pursuant to subsection (1) or (2) of KRS 91A.350 is authorized and empowered to issue revenue bonds in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued, in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(5) A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

**HCR 182,** A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the Economic Development Cabinet and the economic impact state regulatory agencies have on existing businesses and industries.

WHEREAS, the ability of the Commonwealth to meet the growing needs of its citizens is largely dependent on the Commonwealth's ability to finance programs addressing these needs; and

WHEREAS, the retention and expansion of the Commonwealth's existing businesses, in concert with the recruitment of new industry, significantly impact the Commonwealth's economic well-being as well as the revenues of state government; and

WHEREAS, competition among states for new or expanding industry demands that the Commonwealth have an aggressive statewide program for recruitment, and

WHEREAS, state regulatory agencies through their policies, regulations and actions have a major fiscal impact on the Commonwealth's existing industries as well as affecting the decision of companies considering locating in the Commonwealth;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Task Force on Economic Development and Tourism shall study the current organization, functions and activities of the Economic Development Cabinet.

Section 2. That the Task Force on Economic Development and Tourism shall study the economic impact that the actions of regulatory agencies have on the state's existing businesses and industries including, but not limited to, the agriculture and agribusiness industry, the mining industry, the manufacturing industry, the horse industry, the transportation industry, the tourism industry, and the chemical industry.

Section 3. That in its study effort, state agencies and state universities shall be directed to cooperate with the Task Force on Economic Development and Tourism by providing information and other assistance as may be requested.

Section 4. That the Task Force on Economic Development and Tourism shall submit a report of its findings, together with recommendations to the Legislative Research Commission no later than July 1, 1991.

Section 5. That staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

**HCR 186,** A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to conduct a feasibility study concerning the construction of a regional airport in the western part of the state.

WHEREAS, the citizens of the western part of the state, as well as its current and prospective business people, deserve a regional airport that will provide easy air access to Western Kentucky; and

WHEREAS, a regional airport in Western Kentucky will help promote economic development in an area of the state that is not accessible by commercial air carriers;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Task Force on Economic Development and Tourism is hereby directed to conduct a feasibility study concerning the construction of a regional airport in the western part of the state.

Section 2. That the Task Force on Economic Development and Tourism shall make a final report on the feasibility study to the Legislative Research Commission prior to September 1, 1991.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000.

These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

**SB 178,** AN ACT relating to the Governmental Services Center.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) The Governmental Services Center may, upon request, of the Department of Local Government, and as financial and staff resources permit, develop, coordinate, implement, assist and conduct employee and management training programs, seminars and conferences, for agencies, departments, divisions, boards and commissions of county and city government, and any other political subdivisions of the state.*

*(2) The Governmental Services Center may enter into contractual agreements with county and city governments and other political subdivisions as necessary to allow the Governmental Services Center to properly perform its duties and responsibilities as established by this Act.*

*(3) Any agency of a county, city or other political subdivision whose employees receive the benefit of the Governmental Services Center's services, shall reimburse the Governmental Services Center for those costs and expenses which it incurs as a result of providing these services.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*(1) In furtherance of the Commonwealth's economic development programs, the Governmental Services Center may, upon request of the Cabinet for Economic Development and as financial and staff resources permit, develop, coordinate, implement, assist, and provide private industry with consultation, research, programs, and employee assessment services.*

*(2) The Governmental Services Center may enter into contractual agreements with private industry, as necessary to allow the Governmental Services Center to properly perform its duties and responsibilities as established by this Act.*

*(3) Any private industry whose employees or prospective employees receive the benefit of any of the Governmental Services Center's programs, shall reimburse the Governmental Services Center for the costs and expenses which it incurs as a result of developing, coordinating, implementing, and conducting any of the programs or services provided in this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*The receipts for services rendered by the Governmental Services Center pursuant to this Act shall be deposited in the State Treasury and credited to the trust and agency fund of the Governmental Services Center's operating account.*

SB 275, AN ACT relating to industrial improvement projects and authorizing the provision by the Commonwealth of Kentucky of monetary assistance for the projects.

WHEREAS, it is the public policy of the Commonwealth of Kentucky to encourage, promote and support economic development, including the retention and improvement of existing industry and the development and growth of industry and commerce in the Commonwealth, for the public purposes of alleviating and preventing unemployment, stabilizing and promoting the economy of Kentucky; and

WHEREAS, the general welfare of the citizens of the Commonwealth is directly related to the economic and employment opportunities available to them, and it is the legitimate business of the Kentucky state government to provide, to the maximum extent practicable, the impetus for and assistance to economic development which will directly and proximately cause the improvement and retention of industry and employment in the Commonwealth; and

WHEREAS, it is essential to provide additional authority, procedures and techniques to enable the appropriate state agencies of Kentucky to assist in the retention and improvement of existing industry and to authorize those agencies to provide monetary assistance to industrial entities for industrial improvement projects which will result in the alleviation or prevention of unemployment and the general stability of the economy of Kentucky, which are hereby recognized as being vitally essential public purposes;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 154.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Authority" means the Kentucky Development Finance Authority;

(2) *"Cabinet" means the Economic Development Cabinet;*

*(3)* "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry

out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

***(4) "Industrial entity" means any corporation, partnership, person or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth of Kentucky;***

***(5) "Industrial improvement project" means and includes the acquisition, construction or implementation of new manufacturing, processing, or assembling facilities, equipment, methods of processes, or improvements to or repair of existing manufacturing, processing or assembling facilities, equipment, methods or processes, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility or manufacturing, processing or assembling equipment, method or process;***

***(6)***[~~(3)~~] "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 to 65.300;

***(7)***[~~(4)~~] "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

***(8)***[~~(5)~~] "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

***(9)***[~~(6)~~] "Project" means an endeavor approved by the Cabinet for Economic Development and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

***(10)***[~~(7)~~] "Reclamation development fund" means the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land;

***(11)***[~~(8)~~] "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection ***(9)*** [~~(6)~~] of this section;

***(12)***[~~(9)~~] "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project; [~~and~~]

***(13)***[~~(10)~~] "State" means the Commonwealth of Kentucky***; and***

***(14) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes or state sales and use taxes.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***(1) It is hereby found, determined and declared as a legislative finding of fact that the general welfare of the citizens of the Commonwealth is directly related to the economic and employment opportunities***

***available to them, and it is the legitimate business of the Kentucky state government to provide to the maximum extent practicable, the impetus for and assistance to economic development in the Commonwealth through the provision of monetary assistance to industrial entities for industrial improvement projects which will directly and proximately cause the improvement and retention of industry and employment in the Commonwealth.***

***(2) It is hereby further found, determined and declared as a legislative finding of fact that the improvement and retention of manufacturing, processing and assembling facilities will proximately result in:***

***(a) The creation or retention of employment opportunities; or***

***(b) The creation or retention of tax revenues to the Commonwealth, as a taxing entity, which would not be available to the citizens of the Commonwealth or received by the Commonwealth but for the improvement and retention of the facilities and which creation or retention of employment opportunities or tax revenues are hereby found, determined and declared to constitute receipt of value by the Commonwealth for the monetary assistance which it may provide pursuant to this Act to industrial entities undertaking industrial improvement projects located in this state.***

***(3) It is the purpose of this Act to promote and foster the gainful employment, business and economic development opportunities and general welfare of the citizens and residents of the Commonwealth which will result in the alleviation or prevention of unemployment and the general stability of the economy of Kentucky. This purpose will be accomplished by the creation of the authority to enable the Commonwealth to provide monetary assistance to industrial entities, for the improvement and retention of industrial manufacturing, processing or assembling facilities in the Commonwealth which, in return, will create or retain employment opportunities for citizens of the Commonwealth or will create or retain tax revenues. The authority granted by this Act and the purposes to be accomplished by this Act are hereby declared to be public purposes for which public money may be expended.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***(1) In carrying out the purposes of this Act, and in providing for the expenditure of funds to industrial entities to assist in the implementation of an industrial improvement project, the cabinet may find that the cost may be paid in whole or in part out of funds directly appropriated to the responsible state agency for that purpose or by any other method approved by the Governor and the General Assembly.***

***(2) In carrying out the purposes of this Act, and in providing for the expenditure of funds to industrial entities which are appropriated by the General Assembly to assist in the implementation of an industrial improvement project, the cabinet may determine the amount of monetary assistance to be provided by reference to any formula or other objective standard which is based on target levels of employment, projected interest rates or other financing costs, projected levels of investment by the industrial entity or any other objective criteria deemed appropriate by the cabinet under the circumstances.***

***(3) (a) In carrying out the purposes of this Act, the expenditure of funds to industrial entities to assist in the implementation of an industrial improvement project may only be made if:***

***1. There is a finding by the cabinet, that, based upon reasonable investigation, the industrial improvement project cannot be funded out of existing appropriations and is in the best interest of the Commonwealth because it is reasonably expected to result in the creation or retention in whole or in part of employment opportunities or of tax revenues;***

***2. The industrial improvement project is separately approved in writing by the Governor;***

***3. The industrial improvement project is separately approved by the General Assembly; and***

***4. There is an agreement in writing by the subject industrial entity to engage in the industrial improvement project setting forth the basis upon which the amount of monetary assistance provided pursuant to this Act is determined.***

***(b) It is hereby determined and declared as a legislative finding of fact that the provisions and requirements of paragraph (a) of this subsection provide for the receipt by the Commonwealth of fair market value for any monetary assistance provided pursuant to this Act.***

Section 4. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include

excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject

to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.010***(9)***[~~(6)~~].

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

The Committee on Economic Development and Tourism reported **SCR 55** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SCR 55, A CONCURRENT RESOLUTION proclaiming the week of March 31 through April 7, 1990 as Clean Up Kentucky Week.

WHEREAS, Kentucky is blessed with rich natural beauty in its lands and waters; and

WHEREAS, this beauty has contributed to the economic well-being of our tourism industry, agriculture, and community health; and

WHEREAS, a clean Kentucky enhances the quality of life in our communities through recreation, natural surroundings and scenic beauty; and

WHEREAS, the Garden Club of Kentucky is initiating the Less Litter is Neat Educational Program for our schools to help involve young people in keeping Kentucky beautiful; and

WHEREAS, Kentuckians will be preparing for the celebration of Keep America Beautiful Month and the twentieth anniversary of Earth Day;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the week of March 31 through April 7, 1990, shall be declared Clean Up Kentucky Week and that all citizens, community organizations, businesses and industry are encouraged to join in cleanup and beautification efforts throughout the Commonwealth.

The Committee on Rules reported **HB 515, SB 270, HB 664, SB 218, HB 274, HB 403, HB 514, HB 694, HB 726, HB 888, HB 752, HB 753, HB 758, HB 781, HB 796, HJR 124, HCR 159, HJR 173, HCR 175, HB 3, HB 126, HB 492** and **HB 670** have been posted for passage in Orders of the Day, March 15, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage on the Regular Orders of the Day, March 15, 1990: **HB 275, HB 277, HB 281, HB 282, HB 283, HB 284, HB 828, HB 838,**

**HB 887**.

The Committee on Rules reported the following Bills have been recommitted:

Natural Resources and Environmental Protection: **SB 255**.

Appropriations and Revenue: **HB 686**.

Representative Richards moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Richards moved the adoption of the following **HR 157**:

**HR 157**, A RESOLUTION recognizing medical care for the uninsured.

WHEREAS, 220,000 Kentucky residents with incomes at or below the federal poverty level have no health insurance, and are ineligible for Medicaid or other governmental assistance programs; and

WHEREAS, 2,377 Kentucky physicians have voluntarily agreed to provide uncompensated care to eligible patients in Kentucky who have no health insurance and are not covered by Medicaid or other governmental programs, through the Kentucky Physicians Care Program; and

WHEREAS, the nationally-recognized Kentucky Physicians Care Program is in its sixth year of providing this service; and

WHEREAS, over 30,800 patients have been referred to participating physicians resulting in an estimated 123,200 physician/patient encounters at no charge to the patient;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives does hereby recognize, appreciate, and thank the physicians of Kentucky and the Kentucky Medical Association for providing medical care for the uninsured as the public sector works toward an appropriate solution to this problem.

Section 2. That a copy of this resolution be sent to the president of the Kentucky Medical Association, Nelson B. Rue, M.D., 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.

**HR 157** was adopted by voice vote.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

**HB 514**, Representative Farrow; **HB 802**, Representative L. Clark.

Representative Sheehan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sheehan moved that his vote be changed from "nay" to "yea" on **HB 738**. Agreed.

Representative Hatcher moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hatcher moved that his vote be changed from "yea" to "nay" on **HB 738**. Agreed.

Representative Gedling moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that his vote be changed from "yea" to "nay" on **HB 113**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Casebier moved that he be recorded as voting "yea" on **HB 704**. Agreed.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 723**, by Representative J. Harper:

Amend printed copy of **HB 723** on page 5, after line 10, by inserting the following: “***(f) Motorboats or other vessels registered and licensed under the jurisdiction of the United States Coast Guard and holding a valid annual license shall be exempt from the provisions of this act.***”

Floor Amendment No. 7 to the Committee Substitute to **HB 339**, by Representative Hancock:

Amend printed copy of HCS to **HB 339** on page 16, after line 19, by adding the following:

“***(4) Notwithstanding the provisions of subsection (3) of this section and KRS 61.874, the property valuation administrator shall furnish, upon request, a copy of the certified tax roll to any newspaper for the purpose of publishing, without charge, the tax roll in its entirety. In the event that the newspaper fails to publish the tax roll in its entirety within thirty (30) days following receipt from the property valuation administrator, or if the newspaper exacts a charge for publishing the tax roll, the property valuation administrator shall bill the newspaper for the cost of furnishing the tax roll as provided for under the provisions of subsection 3 of this section. In accepting a copy of the certified tax roll, without cost, the newspaper shall agree to the conditions set out in this subsection.***

***(5) No city shall use a certified tax roll supplied to any newspaper by a property valuation administrator under subsection (4) of this section without remitting to the office of the property valuation administrator the fees charged for use of the county assessment pursuant to KRS 132.285 (1)***”.

And by renumbering subsequent subsections and sections to conform.

Floor Amendment No. 1 to the Committee Substitute to **HB 540**, by Representative Ackerson:

Amend printed copy of HCS to **HB 540** on page 1, line 10, to delete “***check lists***” and insert in lieu thereof “***guidelines***”.

Floor Amendment No. 1 to **HB 495**, by Representative A. Jones:

Amend printed copy of **HB 495** on page 4, by adding the following after line 6:

“Section 2. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or legislators' retirement plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum

increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky racing commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (7) to (11), (13) and (14) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board, and the delayed contribution payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months current service credit in one (1) of the state administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) Any employee participating in one (1) of the state administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958 and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under

KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employees of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1988, any employee participating in one (1) of the state administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employee participating in one (1) of the state administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employee participating in one (1) of the state administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

***(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.***".

Floor Amendment No. 1 to **SB 190**, by Representative Gedling:

Amend printed copy of **SB 190** on page 1, line 4, by deleting "***or other artificial light***".

Floor Amendment No. 5 to **HB 146**, by Representative Morris :

Amend printed copy of **HB 146** on page 1, line 4 by deleting "***Appropriations and Revenue***" and inserting in lieu thereof "***Banking and Insurance***".

On page 1, line 7 by deleting "***, so long as the cumulative outstanding***".

On page 1, by deleting lines 8 and 9 in their entirety.

On page 1, line 10, by deleting "***($1,125,000,000), in order***".

On page 1, line 10 by deleting the bracket and strikethroughs.

On page 1, line 11 by deleting the bracket and strikethroughs.

On page 1, line 17 by inserting after "." the following:

"***Nothing in this Act shall exempt Kentucky Housing Corporation bond issues from review by the Capital Project and Bond Oversight Committee in accordance with the provisions of KRS 45.810. No periodic adjustment in bond authorization made by the General Assembly after the effective date of this Act shall be construed as an increase in the bond issue cap of seven hundred million dollars ($700,000,000) in this subsection.***".

On page 1 by deleting the bracket and strikethroughs on line 18.

On page 1, line 18 after "to" by inserting "***issue the remainder of the total issuance amount approved by the Program Review and Investigations Committee as authorized by this section in 1982***".

On page 1, line 19 by inserting "[" in front of "~~provide~~".

On page 2, line 6 by removing the strikethrough on the period and inserting "]" before the period.

On page 2, line 7 by deleting the strikethroughs and "]" on "(3)".

On page 2, line 7 by inserting before "In" the following:

"***The corporation is authorized upon the effective date of this Act to issue an additional one hundred million dollars ($100,000,000) in bonds of the corporation during the two (2) year period beginning with the effective date of this Act. This temporary authorization shall be used by the corporation exclusively for lower and moderate income home loans.***

*(4)*"

On page 2, line 18 by deleting "*(3)*" and inserting in lieu thereof "*(5)*".

On page 4, line 8 by deleting "*(4)*" and inserting in lieu thereof "*(6)*".

On page 4, line 15 by deleting "*(5)*" and inserting in lieu thereof "*(7)*".

On page 4, line 23 by deleting "*(6)*".

On page 4, line 23 by deleting "]" and striking through all of the words on the line.

On page 4, by striking through everything on lines 24, 25, and 26.

On page 4, line 26 by inserting "]" after the period.

On page 5, line 1, by deleting "*(7)*" and removing the brackets and strikethroughs on "(8)".

Floor Amendment No. 2 to **HB 509**, by Representative Turner:

Amend printed copy of **HB 509** on page 1, line 20, after the "." by adding the following language:

"Section 2. KRS 198B.050 is amended to read as follows:

(1) Within one (1) year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky state plumbing code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.

(3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators,International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) Provide uniform standards and requirements for construction and construction materials;

(b) To the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies;

(c) Protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the continuing review of, and the board shall adopt when deemed justified to fulfill the purposes of this chapter, new materials, technologies, and techniques in the building industry. The board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said board by this chapter.

(6) The board shall monitor the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) If the board determines that an agency is not enforcing the provisions of the uniform state building code, it shall direct the department to determine where deficiencies exist. The department shall require the local government to correct the deficiencies within sixty (60) days and report to the department its method of correcting the deficiencies.

(8) If the local government fails to correct the deficiencies, the department shall recommend to the board that the department be permitted to preempt the local program as provided for in KRS 198B.060(4).

(9) The board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

***(10) The board shall promulgate administrative regulations to require that parking spaces being provided for disabled or handicapped persons shall have accessibility in at least one (1) parking space for use of a wheelchair lift which is mounted on a motor vehicle.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 758**, by Representative Adkins:

Amend printed copy of Committee Substitute to **HB 758** on page 4, line 14, after "***counterparts***" by adding: "***, nor shall it be construed to diminish in any manner the authority granted to fiscal courts with regard to approval of hazardous waste incineration facilities pursuant to KRS Chapter 224***"

Floor Amendment No. 3 to **SB 72**, by Representative Heleringer:

Amend printed copy of **SB 72** on page 5, after line 9 by inserting the following:

"***(17) No candidate for any non-partisan office shall accept more than fifty dollars ($50) as a campaign contribution unless he has filed the necessary papers to be eligible to have his or her full, legal name, including married name, to appear on the ballot.***"

Floor Amendment No. 1 to **HB 887**, by Representative Burch:

Amend printed copy of **HB 887** on page 10, line 12, by adding a new section to read as follows:

"Section 8. The provisions of Section 2 of this Act shall be implemented if funds are made available through any appropriation of the General Assembly."

Floor Amendment No. 3 to the Committee Substitute to **HB 429**, by Representative Ford:

Amend printed copy of HCS to **HB 429** on page 5, lines 7 through 26, delete lines 7 through 26 in their entirety, and substitute in lieu thereof the following:

"***(1) In addition to any other requirement by law, a deed to real property, except by gift, shall contain the following:***

***(a) The mailing address of the grantor and grantee;***

***(b) A statement of the full actual consideration; and***

***(c) An acknowledgement signed by the grantor and grantee, or the agent or attorney of either, or the parent or guardian of a person under eighteen (18) years old as to the full actual consideration.***

***(2) A deed to real property evidencing a transfer of title by gift, in addition to any other requirement by law, shall contain the following:***

***(a) An affidavit signed by the grantor and grantee, or the agent or attorney of either, or the parent or guardian of a person under eighteen (18) years old that the transfer was by gift, will or under the laws of descent; and***

***(b) An acknowledgement signed by the grantor and grantee, or the agent or attorney of either, or the parent or guardian of a person under eighteen (18) years old as to the full estimated value of the property.***

***(3) In the event of transfer of real property by will or under the laws of descent, an affidavit shall be filed with the county clerk and shall contain the following:***

***(a) A statement that the transfer was by will or under the laws of descent; and***

***(b) An acknowledgement signed by the personal representative of the estate, or the agent or attorney of same, as to the full estimated value of the property.***

***(4) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.***"

On page 6, line 1, delete "***(3)***" and insert in lieu thereof "***(5)***";

After line 7 and before line 8, insert the following:

"Section 5. KRS 382.990 is amended to read as follows:

(1) Any grantor of a deed or any holder of a note who lodges for record a deed, instrument, or deed assigning a note or a deed of release or an instrument wherein there is a release, and any county clerk or deputy county clerk who receives and permits to be lodged for record any such instrument or deed contrary to the provisions of KRS 382.110, 382.120, 382.290 or 382.360, shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each offense; the clerk or deputy who actually receives and files the instrument for record shall incur the penalty, but no clerk or deputy shall be fined because of any false or erroneous statement in the instrument filed.

(2) Any person who willfully and fraudulently makes affidavit to any statement mentioned in KRS 382.120, which is false, knowing the statement to be false, shall be fined not over five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition shall be liable to any person who may be injured by the making, filing, recording or use of ***the*** [~~such~~] affidavit.

(3) Any person who causes to be recorded in a county clerk's office a deed, deed of trust or mortgage in violation of KRS 382.330, or fails to file the statement required by KRS 382.380, shall be fined not more than one thousand dollars ($1,000).

(4) Any county clerk who records a deed or mortgage in violation of KRS 382.330 shall be fined not more than one hundred dollars ($100).

(5) Any county clerk who, by himself or deputy, fails to perform any duty enjoined upon him by any of the provisions of KRS 382.110, 382.160, 382.180 to 382.200, 382.210, 382.250, 382.300 to 382.320, 382.360 or 382.370 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(6) Any person who knowingly and intentionally gives a false name or address in any instrument or assignment mentioned in KRS 382.430, shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000).

(7) Any county clerk who fails to perform his duties under KRS 382.430, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100).

***(8) Any person who willfully and fraudulently gives a false statement as to the full actual consideration of property or the full estimated value under Section 4 of this Act, shall be guilty of a Class D felony.***

Section 6. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing [~~(~~]other than a will and other than a lease or easement[~~)~~], regardless of where made, executed or delivered ***by which*** [~~whereby~~] any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed ***shall be*** [~~is~~] imposed at the rate of fifty cents (50) for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect ***the*** [~~such~~] amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the

balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe [~~such rules and~~] regulations [~~as it may deem~~] necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to *the* [~~such~~] deed shall, upon conviction, be fined fifty dollars ($50) for each offense.

(7) [~~Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than $100 or to imprisonment for not more than thirty (30) days or to both such fine and imprisonment for each offense.~~

~~(8)~~] The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To*,* [(]in the event of a deed of gift or deed with nominal consideration*,*[)] or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation."

On page 6, line 8, delete "Section 5." and insert in lieu thereof "Section 7";

On page 7, line 15, delete "SECTION 6" and insert in lieu thereof "SECTION 8.";

Line 26, delete "SECTION 7." and insert in lieu thereof "SECTION 9".

Floor Amendment No. 1 to **HB** 888, by Representative Burch:

Amend printed copy of **HB** 888 on page 3, line 27, by adding a new section to read as follows:

"Section 3. The provisions of this Act shall become effective to the extent funds are available or are made available."

The Clerk announced the following meetings:

The Committee on Natural Resources and Environmental Protection, today, upon adjournment.

The Committee on Economic Development and Tourism, upon adjournment, March 15, 1990.

The Committee on Judiciary, March 15, 1990.

## Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 15, 1990.

The motion that the House adjourn until 2:00 p.m., Thursday, March 15, 1990 was adopted by voice vote.

## THURSDAY, MARCH 15, 1990

## FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Rev. Philip H. Ling, Christview Christian Church, Winchester.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 14, 1990 be dispensed with and the same approved. Agreed.

### Senate Message

Announcing passage of **SB 183**.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Cities: **HCR 205**.

Economic Development and Tourism: **SB 396**.

Energy: **SB 332**.

Transportation: **HCR 207**.

### Report of Committees

The Committee on Business Organizations and Professions reported **HB 420** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 420** is as follows:

**HB 420**, AN ACT relating to mining.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 352.470 is amended to read as follows:

(1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional [~~civil or mining~~] engineer ***or land surveyor*** registered in Kentucky ***as their respective practices are defined in KRS Chapter 322. Maps and related materials shall*** [~~KRS 322.340 requires that plats, etc.~~] be stamped with their seal. The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this state, and covers the period ending ______________,
______________________ Certifying Agent

"Acknowledged before me, a ______________________, this ________ day of ________________"

____________________________

____________________________ SEAL

(2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

The Committee on Business Organizations and Professions reported **HB 801** with Committee Substitute attached thereto, **SB 280** and **SB 290** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 801**, AN ACT relating to alcoholic beverages.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 244.560 is amended to read as follows:

(1) No brewer or distributor, his agents or employees, shall make any sale or delivery of any malt beverage without a written invoice made concurrently with the sale or delivery, showing prices and conditions, ***subject to the allowances, rebates, refunds, concessions, or discounts enumerated in subsection (2) of this section,*** upon which the sale or delivery is made; make any invoice which falsely indicates prices and terms of any sale; insert in any invoice any statements which make the invoice a false record, wholly or in part, of the transaction involved or represented on the face of the invoice; or withhold from any invoice any statement which properly should be included in it so that in the absence of such a statement the invoice does not truly reflect the transaction involved.

(2) No brewer or distributor shall make, directly or indirectly, through any agent or employee, and no retailer shall receive any payment of any allowance, rebate, refund, concession or discount, whether in the form of money or otherwise, that does not conform with the prices and conditions of sale shown on the invoice, ***except those allowances, rebates, refunds, concessions, or discounts granted by a brewer to a distributor which are based upon the volume of malt beverages sold by the distributor during a specific period of time.***

The Committee Substitute to **HB 801** is as follows:

**HB 801**, AN ACT relating to alcoholic beverages.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 244.500 is amended to read as follows:

(1) No person holding a license to sell malt beverages shall offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons or labels taken from any bottle, case, barrel or package containing malt beverages or to offer or give anything of value as a premium, gift or prize for any purpose in connection with the sale of malt beverages.

(2) Subsection (1) of this section shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners; nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as a premium, gift or prize to wholesalers, distributors or their employees in connection with sales incentive programs.

***(3) Subsection (1) of this section shall not apply to brewer-sponsored national sweepstakes in which major prizes, not including rebates, price discount coupons, or brand-related novelty items are given to consumers based on certificates found in malt beverage packages or on point of sale materials. Malt beverage distributors, retail licensees, and their employees shall not be eligible to redeem the certificates or participate in the national sweepstakes.***

**SB 280**, AN ACT relating to consumer protection.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

***As used in Sections 1 to 10 of this Act, unless the context otherwise requires:***

***(1) "Advertisement" means a commercial message in any medium that aids, promotes, or assists directly or indirectly a rental-purchase agreement, excluding in-store merchandising aids.***

***(2) "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the rental-purchase agreement.***

***(3) "Consumer" means a natural person who rents personal property under a rental-purchase agreement.***

***(4) "Consummation" means the time a consumer becomes contractually obligated on a rental-purchase agreement.***

***(5) "Division" means the Division of Consumer Protection in the office of the Attorney General.***

***(6) "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a rental-purchase agreement.***

***(7) "Rental-purchase agreement" means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four (4) months or less, whether or not there is any obligation beyond the initial period, that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term rental-purchase agreement shall not be construed to be, nor be governed by, any of the following:***

*(a) A lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 226.2(a)(16) and Section 1602(g) of the Truth in Lending Act, 15 U.S.C. 1601 et seq.;*

*(b) A lease which constitutes a consumer lease as defined in 12 C.F.R. 213.2(a)(6);*

*(c) Any lease for agricultural, business, or commercial purposes;*

*(d) Any lease made to an organization;*

*(e) A lease or agreement which constitutes a retail installment transaction or retail installment contract as defined in KRS 371.210;*

*(f) A security interest as defined in KRS 355.1-201(37); or*

*(g) A home solicitation sale as that term is defined in KRS 367.410.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*(1) For each rental-purchase agreement, the lessor shall disclose the following items as applicable:*

*(a) A brief description of the leased property, sufficient to identify the property to the consumer and lessor;*

*(b) The number, amount, and timing of all lease payments necessary to acquire ownership of the property;*

*(c) The maximum amount of all initial and periodic payments and other charges to acquire ownership of the property pursuant to the ownership provision of the rental-purchase agreement;*

*(d) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership;*

*(e) A statement that the total of payments does not include other charges such as late payment, default, pickup, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges;*

*(f) If applicable, a statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed;*

*(g) A statement indicating whether the property is new or used; however, a statement that indicates new property is used is not a violation of this Act;*

*(h) A statement of the cash price of the property. If the agreement involves a lease for five (5) or more items, a statement of the aggregate cash price of all items shall satisfy this requirement;*

*(i) The total of initial payments required to be paid before consummation of the agreement or delivery of the property, whichever is later;*

*(j) A statement clearly summarizing the terms of the consumer's options to purchase;*

*(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with the description of that responsibility and a statement that, if any part of a manufacturer's express warranty covers the leased property at the time the consumer acquires ownership of the property, it will be transferred to the consumer, if allowed by the terms of the warranty; and*

*(l) The date of the transaction and the identities of the lessor and consumer.*

*(2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, compliance with that act shall satisfy the requirements of this section.*

*(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of Section 182 of the federal Consumer Credit Protection Act, 15 U.S.C.A. 1667a, 90 Stat. 250, with respect to a rental-purchase agreement entered into with a consumer.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*(1) The lessor shall disclose to the consumer the information required by this Act. In a transaction involving more than one (1) consumer, a lessor shall disclose only to one (1) of the consumers who are primarily obligated. In a transaction involving more than one (1) lessor, only one (1) lessor need make the required disclosures.*

*(2) The disclosures required under this Act shall be made no later than the time the lessor delivers the merchandise to the consumer, or upon consummation of the rental-purchase agreement, whichever is earlier.*

*(3) The disclosures shall be made using words and phrases of common meaning in a form that the consumer may keep. The disclosures required under Section 2 of this Act shall be made a part of the rental-purchase agreement or provided on a separate form. The required disclosures shall be set forth clearly and conspicuously. The disclosures shall be placed all together, on the front side of the rental-purchase agreement or on a separate form. The form setting forth the required disclosures shall contain spaces for the consumer's signature and the date immediately below the disclosures. The requirements of this subsection shall not have been complied with unless the consumer signs the statement and receives at the time disclosures are made a legible copy of the signed statement. The inclusion in the required disclosures of a statement that the consumer received a legible copy of those disclosures shall create a rebuttable presumption of receipt thereof.*

*(4) Information required to be disclosed may be given in the form of estimates and shall be identified as such when the lessor does not know the exact information.*

*(5) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosures, the resulting inaccuracy shall not be a violation of this Act.*

*(6) At the lessor's option, information in addition to that required by Section 2 of this Act may be disclosed if the additional information is not stated, utilized, or placed in a manner which will contradict, obscure, or distract attention from the required information.*

*(7) A lessor shall make available a written receipt for each payment made by cash or money order.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*A rental-purchase agreement shall not contain a provision:*

*(1) Requiring a confession of judgment;*

*(2) Requiring a garnishment of wages;*

*(3) Granting authorization to the lessor of a person acting on the lessor's behalf to enter unlawfully upon the consumer's premises or to commit any breach of the peace in the repossession of goods;*

*(4) Requiring the consumer to waive any defense, counterclaim or right of action against the lessor or a person acting on the lessor's behalf in collection of payment under the lease or in the repossession of goods; or*

*(5) Requiring purchase of insurance from the lessor to cover the merchandise.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*(1) Each rental-purchase agreement shall:*

*(a) Provide that the consumer may terminate the agreement without penalty by voluntarily surrendering or returning the merchandise upon expiration of any lease term; and*

*(b) Contain a provision for reinstatement which, at a minimum permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental charges, the reasonable costs of pickup, redelivery, any refurbishing and any applicable late fee within five (5) days of the renewal date if the consumer pays monthly, or within two (2) days of the renewal date if the consumer pays more frequently than monthly.*

*(2) If a lessee returns the property to the lessor during the times stated in subsection (1) of this section, the reinstatement period shall be extended for an additional thirty (30) days from the date of return.*

*(3) Nothing in this section shall prevent a lessor from attempting to repossess property during the reinstatement period, but that repossession shall not affect the consumer's right to reinstate. Upon reinstatement, the lessor shall provide the consumer with the same property or substitute property of comparable quality and condition.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*(1) A renegotiation shall occur when an existing rental-purchase agreement is satisfied and replaced by a new lease agreement undertaken by the same consumer. A renegotiation shall be a new agreement covered by this Act. However, events such as the following shall not be treated as a renegotiation:*

*(a) The addition or return of property in a multiple item agreement or the substitution of lease property, if in either case the average payment allocable to a payment period is not changed by more than twenty-five percent (25%);*

*(b) A deferral or extension of one (1) or more periodic payments, or portions of a periodic payment;*

*(c) A reduction in charges in the agreement;*

*(d) An agreement involving a court proceeding; or*

*(e) Any other event described in administrative regulations prescribed by the division.*

*(2) No disclosures shall be required for any extension of a rental-purchase agreement.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*(1) If an advertisement for a rental-purchase agreement refers to or states the amount of any payment or the right to acquire ownership for any specific item, the advertisement also shall state clearly and conspicuously the following items, as applicable:*

*(a) That the transaction advertised is a rental-purchase agreement;*

*(b) The total of payments necessary to acquire ownership; and*

*(c) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.*

*(2) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.*

*(3) Subsection (1) of this section shall not apply to an advertisement:*

*(a) Which does not refer to a specific item of merchandise;*

*(b) Which does not refer to or state the amount of any payment; or*

*(c) Which is published in the yellow pages of a telephone directory or any similar directory of business.*

*(4) With respect to matters specifically governed by the federal Consumer Credit Protection Act, compliance with that act shall satisfy the requirements of this section.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

*(1) A lessor who fails to comply with a requirement imposed in Section 2, 3, 4, or 5 of this Act with respect to a consumer shall be liable to the consumer in an amount equal to the greater of:*

*(a) The actual damages sustained by the consumer as a result of the violation, plus the costs of the action and reasonable attorneys' fees; or*

*(b) In the case of an individual action, twenty-five percent (25%) of the total of payments necessary to acquire ownership but not less than one hundred dollars ($100) nor greater than one thousand dollars ($1,000), plus the costs of the action and reasonable attorneys' fees; or*

*(c) In the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member, plus the costs of the action and reasonable attorneys' fees. The total recovery in any class action or series of class actions arising out of the same violation shall not be more than the lesser of five hundred thousand dollars ($500,000), plus the costs of the action and reasonable attorneys' fees or one percent (1%) of the net worth of the lessor, plus the costs of the action and reasonable attorneys' fees. In determining the amount of any award in a class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional.*

*(2) In the case of an advertisement, any lessor who fails to comply with the requirements of Section 7 of this Act with regard to any person shall be liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorneys' fees.*

*(3) If there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. If no disclosures have been given, liability shall be imposed on all lessors.*

*(4) If there are multiple consumers in a rental-purchase agreement, there shall be only one (1) recovery of damages under subsection (1) of this section for a violation of this Act.*

***(5) Multiple violations in connection with a rental-purchase agreement shall entitle the consumer to a single recovery under this section.***

***(6) A consumer shall not take any action to offset any amount for which a lessor is potentially liable under subsection (1) of this section against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection shall not bar a consumer then in default on the obligation from asserting a violation of this Act as an original action, or as a defense or counterclaim to an action brought by lessor to collect amounts owed by the consumer.***

***(7) In connection with any transaction covered under this Act, the lessor shall preserve evidence of compliance with the provisions of the Act for not less than two (2) years from the date of consummation of the agreement.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

***A civil action under this Act may be brought in any court of competent jurisdiction within one (1) year of the date of the occurrence of any violation or within six (6) months of the time the rental-purchase agreement, together with any renewals or extensions thereof, ceases to be in effect, whichever is greater. Notwithstanding the above, a civil action under this Act may be maintained by way of recoupment or counterclaim in an action brought against the consumer by the lessor or its assignee.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

***(1) A lessor shall not be liable under Section 9 of this Act for a violation of this Act if the lessor shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, such as a clerical miscalculation, computer malfunctions, programming error, or printing error, even though the lessor maintained procedures reasonably adapted to avoid such an error. An error of legal judgment with respect to requirements of this title shall not be considered a bona fide error.***

***(2) A lessor shall not be liable under Section 9 of this Act for any act done or omitted in good faith in conformity with any administrative regulation or interpretation promulgated by the Attorney General or by the division or by an official duly authorized by the Attorney General or by the division. This rule shall apply even if, after the act or omission has occurred, the regulation or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.***

***(3) A lessor shall not be liable under Section 9 of this Act for any error if, before the thirty-first day after the date the merchant discovers the error and before an action against the lessor has been filed or written notice of the error received by the lessor, the lessor gives the consumer written notice of the error and makes adjustments in the consumer's account as necessary to assure that the consumer will not be required to pay an amount in excess of the amount disclosed and that the agreement otherwise complies with this Act.***

Section 11. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) ***Any person who shall willfully and intentionally violate any provision of this Act shall be fined not more than five hundred dollars ($500.00) for each offense.***

***(10)*** (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties; and

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

***(11)***[~~(10)~~] Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

***(12)***[~~(11)~~] Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

***(13)***[~~(12)~~] Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

***(14)***[~~(13)~~] Either the Attorney General or the appropriate ***Commonwealth's*** [~~Commonwealth~~] attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

***(15)***[~~(14)~~] A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate ***Commonwealth's*** [~~Commonwealth~~] attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

***(16)***[~~(15)~~] Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

***(17)***[~~(16)~~] Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

***(18)***[~~(17)~~] Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

***(19)***[~~(18)~~] Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

***(20)***[~~(19)~~] Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

***(21)***[~~(20)~~] (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

***(22)***[~~(21)~~] (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Either the Attorney General or the appropriate county health department shall have authority to prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor or processor fails to comply with the provisions of KRS 367.857.

**SB 290,** AN ACT relating to the regulation of public accountants.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 325.220 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" [~~when used in KRS 325.220 to 325.440~~] means the State Board of Accountancy [~~created by KRS 325.230~~];

(2) "State" [~~when used in KRS 325.220 to 325.440~~] includes and means any state, territory or insular possession of the United States, or the District of Columbia;

(3) "Public accountant" [~~when used in KRS 325.220 to 325.440~~] means a public accountant issued a permit to practice by the ***Commonwealth*** [~~state~~] of Kentucky under the Public Accounting Act of 1946 as amended;

(4) "Attest," "attesting" or "attestation," when used with reference to financial information or the practice of public accountancy, means to issue, or the issuance of, opinions, reports or other forms of language which state or imply assurance as to the reliability of any***:***

***(a)*** Financial information***; or***

***(b) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, administrative regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate,*** when such opinions, reports or other forms of language are accompanied by or include any name, title, or wording that indicates that the person or firm issuing them is***:***

***1.*** An accountant or auditor***;*** [~~or~~]

***2.*** Has expert knowledge in accounting or auditing***; or***

***3. That his or the firm's work has been performed in accordance with the applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities as recognized by the board by administrative regulation***. The terms include forms of language which disclaim an opinion when such forms of language are conventionally understood to imply any [~~positive~~] assurance as to the reliability of the financial information referred to and expertise on the part of the person uttering such language; and any other form of language which is conventionally understood to imply such assurance and such expertise; ***or which indicates certain procedures have been performed in accordance with applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities as recognized by the board by administrative regulation;***

(5) "Practice of [~~(~~]or practicing[~~)~~] public accountancy" means the offering to perform or the performance by a licensee under this chapter, for a client or potential client, or one (1) or more types of services involving the use of accounting or auditing skills, or one (1) or more types of management***, financial*** advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. This definition ***shall*** [~~does~~] not prohibit anyone who is not a certified public accountant from performing accounting services, such as the preparation of tax returns or financial statements, for which attestation by the preparer is not required;

(6) "Firm" means a sole proprietorship, partnership or professional service corporation or association engaged in the practice of public accountancy;

(7) "Certificate" means a certificate as a "certified public accountant" issued pursuant to ***this chapter*** [~~KRS 325.261~~] or corresponding provisions of prior law; [~~and~~]

(8) "Licensee" means a certified public accountant, firm or public accountant, holding a permit to practice public accounting issued under this chapter***; and***

***(9) "Quality Enhancement Review" means a study, appraisal, or review of one (1) or more aspects of the professional work of a person or firm in the practice of public accountancy during which audits, reviews, or compilations shall be performed.***

Section 2. KRS 325.261 is amended to read as follows:

***(1)*** The certificate of “certified public accountant” shall be granted by the board to any person ***who satisfies the following requirements***:

***(a) Is no less than*** [~~(1) Who is a resident of this state or who has a place of business or is employed therein, at the time of admission to the examination, and has met the requirements established by the board;~~

~~(2) Who has attained the age of~~] eighteen (18) years ***of age;***[~~, and who~~]

***(b)*** Is of good moral character;

***(c) Meets the following educational credentials prior to applying for the examination:***

***1. Has*** [~~(3) Who possesses the educational and experience requirements below:~~

~~(a)~~] a baccalaureate degree ***or master's degree*** conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, ***as defined by the board by administrative regulation; or***

***2. Beginning in the year 2000 with a new examination applicant approved to sit for the first examination of the year or subsequent examination, has completed one hundred and fifty (150) college semester hours which include a baccalaureate degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent as defined by the board by administrative regulation;***

***(d) Has two (2) years of public accounting experience of a quality satisfactory to the board as defined by administrative regulation which includes having participated in the examination of financial statements for third-party reliance in the employ of a certified public accountant of any state or other comparable experience or employment which the board deems equivalent. This requirement shall be reduced to one (1) year for a person who holds a master's degree in accounting or business administration or a master's degree of their equivalent as approved by the board;***

***(e) Passes a board-approved written examination in accounting, auditing and other related subjects as the board deems appropriate. To be eligible to apply for the examination, a person shall first satisfy requirements of subsection (1)(a), (b) and (c) of this section;***

***(f) Submits an application for a certificate as a certified public accountant on a form prescribed by the board and accompanied by a fee not to exceed one hundred dollars ($100).***

***(2) The experience requirement of subsection (1)(d) of this section may alternatively be satisfied in the following matter:***

***(a)*** [~~and two (2) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or such other experience or employment as the board in its discretion may regard as substantially equivalent thereto;~~

~~(b) A master's degree in accounting or business administration conferred by a college or university recognized by the board, with the equivalent of a major or concentration program in accounting at either the graduate or undergraduate level, and one (1) year of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or such other experience or employment as the board in its discretion may regard as substantially equivalent thereto;~~

~~(c) Who holds a permit to practice as a public accountant as defined in KRS 325.220;~~

~~(d) The experience requirement of paragraph (a) or (b) of this subsection may be satisfied by~~] Four (4) years' experience as a field audit agent in the Internal Revenue Service, of which two (2) years is at the journeyman level, [(]presently GS-11 or its future equivalent,[)] in auditing financial statements and supporting materials of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable laws and ***administrative*** [~~government~~] regulations. The board shall ***determine*** [~~be the sole and final judge of~~] the qualification of experience under this section.[;]

***(b)***[~~(e) The experience requirements of paragraph (a) of this subsection shall be satisfied by~~] Two (2) years' experience in the employment of any agency of state government as an auditor or accountant***, if the***[~~; provided that such~~] experience ***was obtained*** [~~is gained~~] under the supervision of a certified public accountant and includes application of the attest function ***through participation in the examination of financial statements***

***for third-party reliance*** using standards adopted by the American Institute of Certified Public Accountants ***or other authorities recognized by the board by administrative regulation. This requirement shall be reduced to one (1) year for individuals holding a master's degree in accounting or business administration referred to in subsection (1)(c) of this section. The board shall determine the qualifications under this section***[~~; and~~

~~(f) The experience requirements of paragraph (b) of this subsection shall be satisfied by one year's experience in the employment of any agency of state government as an auditor or accountant; provided that such experience is gained under the supervision of a certified public accountant and includes application of the attest function using standards adopted by the American Institute of Certified Public Accountants;~~

~~(4) Who shall have successfully passed a written examination in accounting and auditing, and in such other related subjects as the board may deem advisable; and~~

~~(5) Application for a certificate of certified public accountant shall be made on a form prescribed by the board. The board may set a fee for the issuance of a certificate not to exceed fifty dollars ($50)~~].

Section 3. KRS 325.270 is amended to read as follows:

(1) Examinations provided for in this chapter shall be held by the board as often as may be necessary in the opinion of the board, but not less frequently than once each year.

(2) The board may by ***administrative*** regulation ***adopt standards governing the re-examination of candidates. These standards shall include the granting of credit for those portions of the examination on which the candidate achieved a passing score as determined by the board, if a minimum score as determined by the board was achieved on the failed portion(s) of the examination.***

***(3) The board may accept examination results from other states if:***

***(a) It is established that the examination is the same or substantially similar to the one adopted by the board; and***

***(b) The candidate has met the prerequisite examination requirements of KRS Chapter 325*** [~~provide for granting a credit to a candidate for his satisfactory completion of a written examination in any two (2) or more of the subjects specified in subsection (4) of KRS 325.261, or the accounting practice portion of the examination alone, given by the licensing authority in any other state; provided, that when he took such examination in such other state he met all the requirements for admission to the examination under KRS 325.265 except for the requirement as to residence.~~

~~(3) The board may by regulation prescribe the terms and conditions under which a candidate who passes the examination in two (2) or more of the subjects indicated in subsection (4) of KRS 325.261, or the accounting practice portion of the examination alone, may be re-examined in only the remaining subjects, with credit for the subjects previously passed. It may also provide by regulation for a reasonable waiting period for a candidate's re-examination in a subject he has failed. Subject to the foregoing and such other regulations as the board may adopt governing re-examinations, a candidate shall be entitled to any number of re-examinations~~].

(4) The board shall charge each candidate a fee not to exceed two hundred dollars ($200) for the initial examination. This fee shall be payable by the candidate at the time prescribed by ***administrative*** regulation of the board. [~~Should the candidate fail to pass the examination, re-examination will be given the same candidate for~~] An additional fee not to exceed ***fifty*** [~~forty~~] dollars ***($50)*** [~~($40)~~] for each subject or part ***shall be charged for re-examination*** [~~thereof in which the candidate is examined~~].

***(5) An out-of-state candidate sitting for the examination in Kentucky shall be charged a proctoring fee not to exceed one hundred dollars ($100).***

Section 4. KRS 325.280 is amended to read as follows:

(1) ***The board may issue a certificate and permit as a "certified public accountant," without examination, if the applicant:***

***(a) Holds a valid certificate, active permit, and is in good standing as a certified public accountant, issued under the laws of any other state or holds a certificate, license, or degree in good standing from a foreign country constituting a recognized qualification for the practice of public accounting in that country, comparable to that of a certified public accountant of this Commonwealth; and***

***(b) Meets all current requirements in this Commonwealth at the time application is made, or is currently licensed by another jurisdiction for the five (5) years immediately preceding the application and meets the current experience requirement in this Commonwealth, or within the ten (10) years immediately preceding***

***the application had four (4) years of acceptable experience in the practice of public accountancy after passing the examination acceptable to the board upon which the certificate was based*** [~~Individuals who at the time of the enactment of this chapter held certified public accountant certificates heretofore issued under the laws of this state shall not be required to secure additional certificates under this chapter but shall otherwise be subject to all of their provisions; and such certificates heretofore issued shall, for all purposes, be considered certificates issued under this chapter and subject to all of their provisions.~~

~~(2) The board may in its discretion waive the examination under KRS 325.265 and may issue a certificate as a "certified public accountant" to any person possessing the qualifications specified in subsections (1) and (2) of KRS 325.261 and what the board determines to be substantially the equivalent of the applicable qualifications under subsection (3) of KRS 325.261, who is the holder of a certificate as a certified public accountant, then in force, issued under the laws of any state, or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in force.~~

~~(3) The board may grant a certificate to a holder of a certificate issued by another state, provided that the applicant:~~

~~(a) Meets all current requirements in this state at the time application is made;~~

~~(b) At the time of the issuance of the applicant's certificate in the other state, met all requirements then applicable in this state; or~~

~~(c) Had four (4) years of acceptable experience in the practice of public accountancy after passing the examination upon which his certificate was based and within the ten (10) years immediately preceding his application~~].

Section 5. KRS 325.290 is amended to read as follows:

***(1) Only an*** [~~Any~~] individual who has received [~~from the board~~] a certificate [~~of "certified public accountant"~~] and ***a current*** [~~who holds an annual~~] permit to practice [~~issued under KRS 325.330~~] shall be styled and known as a "certified public accountant". ***A certified public accountant*** [~~and~~] may also use the abbreviation "CPA[~~.~~]" ***or*** [~~The board shall keep a list of certified public accountants. Any certified public accountant may also be known as a~~] "public accountant."

***(2) The achievement of the requirements necessary to be awarded a certificate shall not allow the use of the titles "certified public accountant" or "CPA," unless a permit to practice has been issued and is current. Permit holders granted a waiver from continuing professional education may use "certified public accountant," "public accountant" or "CPA," but shall not practice public accounting.***

Section 6. KRS 325.300 is amended to read as follows:

(1) A partnership engaged in this ***Commonwealth*** [~~state~~] in the practice of public accounting ***shall*** [~~may~~] register with the board as a partnership of certified public accountants. ***Each partnership of certified public accountants shall meet*** [~~provided it meets all of~~] the following requirements:

(a) At least one (1) general partner ***shall*** [~~thereof must~~] be a certified public accountant of this ***Commonwealth*** [~~state~~] in good standing***;***[~~, and~~]

(b) Each resident manager in charge of an office of the partnership in this ***Commonwealth*** [~~state~~] and each partner [~~thereof~~] personally engaged within this ***Commonwealth*** [~~state~~] in the practice of public accounting ***shall*** [~~as a member thereof must~~] be a certified public accountant of this ***Commonwealth*** [~~state~~] in good standing***;***[~~,~~] and

(c) Each partner ***shall*** [~~thereof must~~] be a certified public accountant of ***at least one (1) other*** [~~some~~] state ***or the equivalent designation of a foreign jurisdiction*** in good standing.

(2) A corporation organized for the practice of public accounting ***shall*** [~~may~~] register with the board as a corporation of certified public accountants. ***Each partnership of certified public accountants shall meet***[~~, provided it meets~~] the following requirements:

(a) The sole purpose and business of the corporation shall be to furnish to the public services ***consistent*** [~~not inconsistent~~] with this chapter and the ***administrative*** regulations of the board***;*** [~~, provided that the corporation invests its funds in a manner not incompatible with the practice of public accounting.~~]

(b) Each shareholder***, officer, or director*** of the corporation shall be a certified public accountant of ***at least one (1) other*** [~~some~~] state ***or the equivalent designation of a foreign jurisdiction*** in good standing***;*** [~~and shall be principally employed by the corporation or actively engaged in its business. No other person~~

~~shall have any interest in the stock of the corporation. The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation shall be a certified public accountant of some state in good standing.~~]

(c) At least one (1) shareholder of the corporation shall be a certified public accountant of this ***Commonwealth*** [~~state~~] in good standing***;*** [~~.~~]

(d) Each resident manager in charge of an office of the corporation in this ***Commonwealth*** [~~state~~] and each shareholder or director personally engaged within this ***Commonwealth*** [~~state~~] in the practice of public accounting shall be a certified public accountant of this ***Commonwealth*** [~~state~~] in good standing***;*** [~~.~~]

(e) [~~In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there shall be a written agreement binding the corporation or the qualified shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder and binding any holder not a qualified shareholder to sell such shares to the corporation or the qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, so long as one share remains outstanding.~~

~~(f)~~] The corporation shall be in compliance with [~~such~~] other ***laws and administrative*** regulations pertaining to ***professional service*** corporations practicing public accounting in this ***Commonwealth*** [~~state as the board may prescribe~~].

(3) Application for registration as a partnership or corporation shall be made upon the affidavit of a general partner or shareholder who is a certified public accountant of this ***Commonwealth*** [~~state~~] in good standing. The board shall in each case determine whether the applicant is eligible for registration. A partnership or corporation which is [~~so~~] registered and holds a permit issued under ***this chapter*** [~~KRS 325.330~~] may use the words "certified public accountants" or the abbreviation "CPA's" in connection with its partnership or corporate name.

***(4)*** Notification shall be given the board, within one (1) month, after the admission to or withdrawal of a partner or shareholder personally engaged in the practice of public accounting in this ***Commonwealth*** [~~state~~] from any partnership or corporation so registered.

Section 7. KRS 325.321 is amended to read as follows:

(1) Each ***firm*** [~~office~~] established or maintained in this ***Commonwealth practicing as a sole proprietorship*** [~~state for the practice of public accounting in this state by a certified public accountant, or partnership or corporation of certified public accountants, or by a public accountant or a partnership or corporation of public accountants,~~] shall register [~~annually~~] with the board ***at the time of permit renewal, provided that:***

***(a)*** [~~, but~~]No fee shall be charged for ***this*** [~~such~~] registration***;***

***(b) A licensee operating more than one (1) office for the practice of public accounting within this Commonwealth shall register each office with the board in a manner prescribed by the board; and***

***(c) Each firm holding a permit under this section shall notify the board in writing of any change of permit information within thirty (30) days after its occurrence.***

***(2) Each firm established or maintained in this Commonwealth in the form of a partnership, corporation, or association shall apply to the board for a firm permit, provided that:***

***(a) Firm permits shall be initially issued and renewed for a period of two (2) years and shall expire on the first day of July in the year of expiration. Applications for a firm's initial permit or renewal permit shall be made on forms prescribed by the board by administrative regulation;***

***(b) A firm applying for initial issuance or renewal of a permit to practice under this section shall be required to show that each partner, officer, or shareholder who regularly works in this Commonwealth, holds a valid individual permit to practice in Kentucky;***

***(c) A firm applying for initial issuance or renewal of a permit to practice under this section shall be required to register each office of the firm within this Commonwealth with the board;***

***(d) The board shall charge a fee for each application for initial issuance or renewal of a permit under the provisions of this section in an amount not to exceed two hundred dollars ($200) biennially; and***

***(e) Each firm holding a permit under this section shall notify the board in writing, within thirty (30) days after its occurrence, of any change in the identities of partners, officers, or shareholders, the number or location of offices, and any change in the identity of the persons in charge of the firm office or offices.***

*(3) The board may require any firm in this Commonwealth engaged in the practice of public accounting during which they issue audits, reviews, or compilations to submit to quality enhancement review or its equivalent as determined by the board by administrative regulation.*

[~~(2) Each such office shall be managed and supervised on a direct and continuing basis by a partner, shareholder, or a staff employee holding a permit issued under KRS 325.330, which is in full force and effect. The title or designation "certified public accountant," "public accountant," or the abbreviation "CPA" shall not be used in connection with such office unless such manager is the holder of a permit to practice issued under KRS 325.330 which has not been revoked or suspended. The board shall by regulation, in accordance with the provisions of KRS Chapter 13, prescribe the procedure to be followed in effecting such registrations.~~]

Section 8. KRS 325.330 is amended to read as follows:

(1) *An applicant for initial issuance of a permit to practice shall show:*

*(a) That he has obtained a certificate as specified in this chapter;*

*(b) That he has paid a fee not to exceed two hundred dollars ($200); and*

*(c) That he has completed an application on a form issued by the board.*

*(2) Permits shall be initially issued and renewed for a period of two (2) years, and shall expire on the first day of July in the year of expiration.*

*(3) In July, 1991, one-half (1/2) of the permit holders on that date shall be issued permits with a one (1) year expiration date, while the remaining permit holders shall be issued permits with a two (2) year expiration date.*

*(4) An applicant for renewal of a permit to practice, in good standing, shall complete a permit renewal form provided by the board showing the applicant has:*

*(a) Fulfilled the requirement of continuing professional education for professional enhancement as defined by the board by administrative regulation, but not to exceed eighty (80) hours during a two (2) year calendar period ending December 31 preceding the July 1 renewal date. Certified public accountants not engaged in public accounting shall be required to achieve continuing professional education not to exceed sixty (60) hours during the two (2) year calendar period ending December 31 preceding the July 1 renewal date. The board shall provide for lesser, prorated requirements for applicants whose initial permit was issued substantially less than two (2) years prior to the renewal date;*

*(b) Paid a fee not to exceed two hundred dollars ($200) biennially;*

*(c) Listed a permanent mailing address; and*

*(d) Designated on the permit renewal application whether he is engaged in any manner of public accounting.*

*(5) Any permit not renewed by the expiration date shall automatically expire and the holder of the expired permit shall be prohibited from practicing public accounting or holding himself out as a certified public accountant.*

*(6) The holder of an expired permit, who has not violated any other provision of this chapter, may renew the permit by meeting all of the requirements of this section and paying a late penalty fee not to exceed one hundred dollars ($100).*

*(a) If the permit has expired for a period longer than twelve (12) months, the applicat shall apply to the board for reinstatement. The board shall determine the eligibility for permit reissuance, including a late penalty fee not to exceed two hundred dollars ($200) and additional continuing professional education hours.*

*(b) Failure to receive a renewal notice shall not constitute an adequate reason for failing to renew the permit to practice in a timely manner.*

*(7) The board may reduce or waive the permit to practice renewal requirements upon written request of the permit holder showing illness, extreme hardship, or age and complete retirement from practice as prescribed by the board by administrative regulation* [~~Permits to engage in the practice of public accounting in this state shall be issued by the board to individuals, partnerships and corporations qualifying under this chapter after the payment by each such certificate holder, individual, partnership or corporation of an annual permit fee to be fixed by the board not to exceed one hundred dollars ($100). All permits shall expire on the first day of July of each year, but may, annually, be renewed for a period of one (1) year by permit holders in good standing upon the payment of a fee for renewal as herein provided. The renewal fee is due~~

~~on or before the expiration date of the holder's permit, but failure to renew a permit before expiration thereof, except as provided in subsection (1)(i) of KRS 325.340, shall not deprive a permit holder of the right to renewal; in such cases a permit holder in good standing may renew his permit by payment of any and all annual fees unpaid by him since the expiration of his permit and by payment of a penalty of twenty dollars ($20) in addition thereto. The board may, in its discretion reduce or waive the above requirements in cases of illness, retirement from practice and similar situations.~~

~~(2) Effective for the year beginning July 1, 1985, every application by a certified public accountant for renewal of a permit to practice shall be accompanied or supported by such evidence as the board shall prescribe of satisfactory completion of twenty (20) hours of continuing professional education courses, which are professionally enhancing, during the twelve (12) month period prior to permit renewal. The board may provide for lesser, prorated education requirements for applicants whose initial permit was issued substantially less than one (1) year prior to the renewal date.~~

~~(3) The board may, in its discretion, waive or lower the annual continuing education requirement for reasons of age, disability or individual hardship~~].

Section 9. KRS 325.340 is amended to read as follows:

(1) After notice and hearing as provided in ***this chapter*** [~~KRS 325.360~~], the board may revoke or suspend any certificate of a certified public accountant issued under this chapter or any registration of a public accountant granted under ***this chapter*** [~~KRS 325.310~~], or may revoke, suspend or refuse to issue or renew any permit issued under ***this chapter*** [~~KRS 325.330~~], or may censure the holder of any such permit, place any licensee on probation, all with or without terms, for any one (1) or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under this chapter, or in obtaining a permit to practice public accounting under this chapter;

(b) Dishonesty, fraud or negligence in the practice of public accounting***, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including but not limited to, the following:***

***1. Knowing preparation, publication or dissemination of false, fraudulent or materially misleading financial statements, reports or information; and***

***2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property or other valuable consideration by fraudulent means or false pretenses***;

(c) Violation of any of the provisions of this chapter or ***administrative regulations*** [~~rules~~] promulgated by the board under this chapter ***or violation of any order of the board***;

(d) Violation of a rule of professional conduct promulgated by the board [~~under the authority granted by chapter 143 of the Acts of 1968~~];

(e) Conviction of a felony or of any crime an element of which is dishonesty or fraud, under the laws of any state or of the United States;

(f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;

(g) Suspension or revocation of the right to practice before any state or federal agency; ***or***

(h) [~~Failure to become a citizen of the United States within six (6) years by any person not a citizen of the United States when he received a certificate as certified public accountant under this chapter;~~

~~(i) Failure of a certificate holder or registrant to obtain an annual permit to practice as required under KRS 325.330, 1. within three (3) years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant, or 2. within three (3) years of the date upon which the certificate holder or registrant was granted his certificate or registration; or~~

~~(j)~~] Conduct discreditable to the accounting profession.

(2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent licensee to pay the costs of the proceeding.

Section 10. KRS 325.360 is amended to read as follows:

(1) The board may conduct investigations of suspected violations of this chapter or ***the administrative regulations promulgated by*** [~~of the rules of~~] the board to determine whether there is probable cause to institute proceedings against any person or firm for such violation under ***this chapter*** [~~KRS 325.265~~]; but an investigation

under this section shall not be a prerequisite to such proceedings. In aid of such investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence.

(2) The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. The board shall find probable cause or lack of probable cause upon the basis of the report, or shall return the report to the investigating officer for further investigation. Until there has been a determination of probable cause, the report of the investigating officer, the testimony and documents gathered in the investigation and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.

(3) Upon finding of probable cause, if the subject of the investigation is a licensee, the board shall direct that a complaint be issued pursuant to this section; and if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to ***this chapter*** [~~KRS 325.990~~]. Upon a finding of no probable cause, the board shall close the matter [~~and thereafter release information relating thereto only with the consent of the board or of the person or firm under investigation~~].

(4) In any case where probable cause has been determined pursuant to this section with respect to a violation by a licensee, or where the board has received a written complaint by any person furnishing grounds for a determination of such probable cause or where the board has received notice of a decision by the board of accountancy of another state furnishing such grounds, the board shall issue a complaint setting forth appropriate charges and set a date for hearing before the board on such charges. The board shall not less than thirty (30) days prior to the date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the licensee, ***at the mailing address indicated to the board by the licensee*** [~~together with a copy of the board's rules governing proceedings under this section~~], either by personal delivery or mailing a copy [~~thereof~~] by ***certified*** [~~registered~~] mail***, return receipt requested,*** to the licensee [~~at his address last known to the board~~].

(5) A licensee against whom a complaint has been issued under this section shall have the right, reasonably in advance of the hearing, to examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of anticipated evidence, in the board's possession relating to the subject matter of the complaint. [~~The board's rules governing proceedings under this section shall specify the manner in which such right may be exercised.~~]

(6) If, after having been served with the notice of hearing as provided for herein, the respondent fails to appear at said hearing, the board may hear evidence against him and may enter such order as shall be justified by the evidence, which order shall be final unless he petitions for a review. [~~thereof as provided herein: provided, however, that~~] Within thirty (30) days from the date of any order, upon a showing of good cause for failing to appear, the board may reopen said proceedings and may permit the respondent to submit evidence in his behalf.

(7) In a hearing under this section the respondent licensee may appear in person [~~(~~]or, in the case of a firm, through a partner, officer, director or shareholder[~~)~~] and by counsel, examine witnesses and evidence presented in support of the complaint, and present evidence and witnesses on his own behalf. The licensee shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(8) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.

(9) The board, or its designee, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence in connection with or at the hearing under this chapter. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(10) The board shall not be bound by technical rules of evidence.

(11) A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(12) At all hearings the Attorney General of this ***Commonwealth*** [~~state~~], or one (1) of his assistants designated by him or such other legal counsel as may be employed shall appear and represent the board.

Said counsel shall not be the same counsel who presents or assists in presenting the evidence supporting the complaint pursuant to subsection (8) of this section.

(13) In a hearing under this section a vote of a majority of all members of the board then in office, [~~(~~]other than a member disqualified by reason of subsection (8) of this section***,***[~~)~~] shall be required to sustain any charge and to impose any penalty with respect thereto.

(14) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court within thirty (30) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be [~~forthwith~~] served upon ***the executive director*** [~~any member~~] of the board and ***the petitioner shall be responsible for certifying and filing*** [~~thereupon the board shall certify and file~~] in the court a transcript of the record upon which the order complained of was entered. No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive director of the accountancy board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. [~~The court's order shall have the force and effect of a decree in equity and may be appealed to the Court of Appeals.~~]

(15) On rendering a decision to revoke, suspend, refuse to renew, or censure the holder of a certificate or a permit to practice issued under ***this chapter,*** [~~KRS 325.330~~] the board shall examine its records to determine whether the respondent holds a certificate, a registration, or a permit to practice in any other state. If the board determines that the respondent holds a certificate, a registration, or a permit to practice in any other state, the board shall notify the board of accountancy of such other state of its decision by mail within thirty (30) days of rendering such decision.

(16) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in such information.

Section 11. KRS 325.370 is amended to read as follows:

(1) In any case where the board has suspended or revoked a certificate or a permit or refused to renew a permit, the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension or reissue the certificate and permit.

(2) The board shall by ***administrative*** regulation, specify the manner in which***:***

***(a)*** [~~such~~] Applications shall be made***;***[~~,~~]

***(b)*** The times within which ***the applications*** [~~they~~] shall be made, and the circumstances in which hearings ***shall*** [~~will~~] be held thereon***; and***

***(c) Any corrective or remedial education, training or review requirement for reinstatement.***

Section 12. KRS 325.380 is amended to read as follows:

(1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under ***this chapter*** [~~KRS 325.330~~] which has not been revoked or suspended and all offices of such person in this ***Commonwealth*** [~~state~~] for the practice of public accounting are maintained and registered as required under ***this chapter*** [~~KRS 325.321~~].

(2) No firm shall assume or use the title or designation "certified public accountants" or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is composed of certified public accountants unless such firm is registered as a firm of certified

public accountants under ***this chapter*** [~~KRS 325.300~~], holds a permit issued under ***this chapter*** [~~KRS 325.330~~] which has not been revoked or suspended and all offices of such firm in this state for the practice of public accounting are maintained and registered as required under ***this chapter*** [~~KRS 325.321~~].

(3) No individual shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under ***this chapter*** [~~KRS 325.310~~] and holds a permit issued under ***this chapter*** [~~KRS 325.330~~] which has not been revoked or suspended and all offices of such person in this state for the practice of public accounting are maintained and registered as required under ***this chapter*** [~~KRS 325.321~~], or unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under ***this chapter*** [~~KRS 325.330~~] which has not been revoked or suspended and all offices of such person in this state for the practice of public accounting are maintained and registered as required under ***this chapter*** [~~KRS 325.321~~].

(4) No firm shall assume or use the title or designation "public accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of public accountants, unless such firm is registered as a firm of public accountants under ***this chapter*** [~~KRS 325.320~~] or as a firm of certified public accountants under ***this chapter*** [~~KRS 325.300~~] and holds a permit issued under ***this chapter*** [~~KRS 325.330~~] which has not been revoked or suspended and all offices of such firm in this state for the practice of public accounting are maintained and registered as required under ***this chapter*** [~~KRS 325.321~~].

(5) No individuals or firm shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited auditor," "accounting practitioner," "accredited accountant," "expert accountant," "expert auditor," "certified auditor," or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," "AP," "PA," "EA," "RA," "LA," or "AA" or similar abbreviations likely to be confused with "CPA."

(6) ***No person or firm shall sign or affix his name or a firm name to any document or prepare or issue any document which indicates the person or firm performed the attest function in the preparation of the documents or that includes any language which indicates that he or the firm has expert knowledge in the use of the attest function, unless the person or firm holds a permit to practice under this chapter. This prohibition shall be applicable to issuance by a person or firm not holding a valid permit of a report using any form of language conventionally used by licensees with respect to a compilation of financial statements. The provisions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he holds in the organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties*** [~~No person shall sign or affix his name or any trade or assumed name used by him in his profession or business to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:~~

~~(a) Financial information, or~~

~~(b) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording accompanying or contained in such opinion or certificate, which indicates:~~

~~1. That he is an accountant or auditor, or~~

~~2. That he has expert knowledge in accounting or auditing, unless he holds a permit issued under KRS 325.330 which has not been revoked or suspended, and all offices of such individuals located in this state for the practice of public accounting are maintained and registered as required under KRS 325.321; provided, however, that the provisions of this subsection shall not prohibit any officer, employee, partner or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title, or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.~~

~~(7) No person shall sign or affix a firm name to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording, accompanying or contained in such opinion or certificate, which indicates that such firm is composed of or employs (i) accountants or auditors or (ii) persons having expert knowledge in accounting or auditing, unless the firm holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices~~

~~of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321~~].

***(7)***[~~(8)~~] No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a firm, or in conjunction with the designation "and Company" or "and Associates" or a similar designation if, in any such case, there is in fact no bona fide firm registered under ***this chapter*** [~~KRS 325.300 or 325.320~~].

***(8)***[~~(9)~~] No corporation performing functions permitted by this chapter shall use designations such as "and Company" or "and Associates" or a similar designation, if in any such case, there is in fact only one shareholder.

***(9)***[~~(10)~~] No person or firm holding a permit under this chapter shall engage in the practice of public accountancy using a professional or firm name or designation which is misleading as to the legal form of the firm, or as to the persons who are partners, officers or shareholders of the firm, or as to any other matters; provided, that names of one (1) or more deceased or retired partners or shareholders may be included in the name of a firm or its successor.

Section 13. KRS 325.390 is amended to read as follows:

(1) Nothing contained in this chapter shall prohibit any individual not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant or firm composed of certified public accountants or public accountants holding a permit to practice under ***this chapter*** [~~KRS 325.330~~]; provided that such employee or assistant shall not issue any ***attestation report on his or the firm's work signed*** [~~accounting or financial statement~~] over his name.

(2) The board shall adopt ***administrative*** [~~rules and~~] regulations providing for the issuance of temporary permits upon written application, as a privilege to out-of-state certified public accountants or firm of certified public accountants for the purpose of enabling such individuals or firms to perform public accounting services in Kentucky. No such temporary permit shall be valid for more than six (6) months after its issuance. After the expiration of six (6) months, a new permit shall be required. Such temporary practice ***shall*** [~~must~~] be conducted in conformity with the ***administrative*** regulations and rules of professional conduct promulgated by the board. [~~:~~]

(a) A temporary permit shall not be required if the out-of-state certified public accountant or firm of certified public accountants is entering the state solely for the purpose of serving as a bona fide employee, partner or shareholder of a Kentucky registrant in performing services for the clients of the Kentucky registrant ***or to conduct a quality enhancement review.***

(b) Each application of an out-of-state certified public accountant or firm of certified public accountants for a temporary permit shall require a payment of a permit fee to be fixed by the board not to exceed one hundred dollars ($100).

(c) The application by an out-of-state certified public accountant or firm of certified public accountants for a temporary permit shall constitute the appointment of the Secretary of State as their agent on whom process may be served in any action or proceeding against them arising out of any transaction or operation connected with or incidental to fulfilling the engagements for which the temporary permit was issued.

Section 14. The following KRS section is repealed:

325.265 Persons eligible for CPA examination — Experience requirements to be met.

The Committee on Judiciary reported **HB 25** with Committee Substitute attached thereto, **HB 184** with Committee Substitute attached thereto, **HB 199**, **HB 621**, **HB 795** with Committee Substitute attached thereto, **HB 889** with Committee Substitute and Committee Amendment attached thereto, **SB 51** with House Committee Substitute, **SB 103**, **SB 125**, **SB 172**, **SB 173** with House Committee Substitute attached thereto, **SB 180** and **SB 305** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 25,** AN ACT relating to the handicapped.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 344.010 is amended to read as follows:

In this chapter:

(1) "Person" includes one or more individuals, labor unions, joint apprenticeship committees, partnerships,

associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky commission on human rights.

(3) "Commissioner" means a member of the commission.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as the home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(9) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(10) "Licensing agency" means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(11) "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

***(12) "Handicap" or "handicapped" means any individual who has a physical or mental impairment which substantially limits one (1) or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.***

***(13) "Physical or mental impairment" means:***

***(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one (1) or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin and endocrine; or***

***(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.***

***(14) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.***

***(15) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one (1) or more major life activities.***

***(16) "Is regarded as having an impairment" means:***

***(a) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;***

***(b) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or***

***(c) Has none of the impairments defined in subsection (13) of this section but is treated by a recipient as having such an impairment.***

Section 2. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS 344.140 and 344.145, it ***shall be*** [~~is~~] an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, as defined in KRS 344.130, on the ground of ***his*** race, color, religion, [~~or~~] national origin***, or handicap.***

Section 3. KRS 344.140 is amended to read as follows:

It ***shall be*** [~~is~~] an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, will be refused, withheld from, or denied an individual on account of his race, color, religion, [~~or~~] national origin, ***or handicap,*** or that the patronage of, or presence at, a place of public accommodation, resort or amusement, of an individual, on account of his race, color, religion, [~~or~~] national origin ***or handicap*** is objectionable, unwelcome, unacceptable, or undesirable.

The Committee Substitute to **HB 25** is as follows:

**HB 25**, AN ACT relating to the handicapped.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 344.010 is amended to read as follows:

In this chapter:

(1) "Person" includes one or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky commission on human rights.

(3) "Commissioner" means a member of the commission.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as the home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(9) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(10) "Licensing agency" means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(11) "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

***(12) "Handicap" or "person with a handicap" means a person who is mentally retarded; a person who uses an assistive device for mobility; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, has mobility limitations or walks with difficulty or insecurity; a person who has faulty coordination or palsy; a person who is visually or hearing impaired; or a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.***

***(13) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.***

Section 2. KRS 344.120 is amended to read as follows:

***(1)*** Except as otherwise provided in KRS 344.140 and 344.145, it ***shall be*** [~~is~~] an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, as defined in KRS 344.130, on the ground of ***his*** race, color, religion, [~~or~~] national origin***, or handicap.***

***(2) Nothing in this section shall be construed to require more substantial structural alterations for persons with handicaps than those required for physically handicapped persons under KRS Chapter 198B.***

Section 3. KRS 344.140 is amended to read as follows:

It ***shall be*** [~~is~~] an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, will be refused, withheld from, or denied an individual on account of his race, color, religion, [~~or~~] national origin, ***or handicap,*** or that the patronage of, or presence at, a place of public accommodation, resort or amusement, of an individual, on account of his race, color, religion, [~~or~~] national origin ***or handicap*** is objectionable, unwelcome, unacceptable, or undesirable.

**HB 184,** AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In ***the*** [~~such~~] hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas.[~~; provided, however, that~~] Only ***the*** [~~such~~] evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. ***The*** [~~Such~~] hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

6. The offender's act or acts of killing were intentional and resulted in multiple deaths; [~~and~~]

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; ***and***

***8. The offender killed the victim of the kidnapping or another person during or as a result of the kidnapping or the victim of the kidnapping or another person died as a result of the offender's actions during or as a result of the kidnapping.***

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make ***the*** [~~such~~] designation. In all cases, unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

The Committee Substitute to **HB 184** is as follows:

**HB 184,** AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In ***the*** [~~such~~] hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas.[~~; provided, however, that~~] Only ***the*** [~~such~~] evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. ***The*** [~~Such~~] hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider,

or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

6. The offender's act or acts of killing were intentional and resulted in multiple deaths; [~~and~~]

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; ***and***

***8. The offender intentionally or wantonly killed the victim of the kidnapping or another person during or as a result of the kidnapping.***

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make ***the*** [~~such~~] designation. In all cases, unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so

found, the death penalty or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

**HB 199,** AN ACT relating to intestate succession.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 391.105 is amended to read as follows:

(1) For the purpose of intestate succession, if a relationship of parent and child must be established to determine succession by, through, or from a person, a person born out of wedlock is a child of the natural mother. That person is also a child of the natural father if:

(a) The natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; or

(b) In determining the right of the child or its descendants to inherit from or through the father:

1. There has been an adjudication of paternity before the death of the father; or

2. ***Pursuant to a legal action commenced within one (1) year after the death of the father,*** there has been an adjudication of paternity [~~after the death of the father~~] based upon clear and convincing proof;

(c) In determining the right of the father or his kindred to inherit from or through the child:

1. There has been an adjudication of paternity before the death of the child; or

2. ***Pursuant to a legal action commenced within one (1) year after the death of the child,*** there has been an adjudication of paternity [~~after the death of the child~~] based on clear and convincing proof and the evidence in such adjudication shall have demonstrated that the father openly treated the child as his, and the father did not follow a consistent policy of refusing to support the child on the ground of nonpaternity.

(2) The terms and conditions set out in this section shall also apply in actions brought pursuant to KRS 411.130 and 411.135.

**HB 621,** AN ACT relating to limitations of actions.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.39-230 is amended to read as follows:

(1) If no basic or added reparation benefits have been paid for loss arising otherwise than from death, an action therefor may be commenced not later than two (2) years after the injured person suffers the loss and either knows, or in the exercise of reasonable diligence should know, that the loss was caused by the accident, or not later than four (4) years after the accident, whichever is earlier. If basic or added reparation benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than two (2) years after the last payment of benefits.

(2) If no basic or added reparation benefits have been paid to the decedent or his survivors, an action for survivor's benefits may be commenced not later than one (1) year after the death or four (4) years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two (2) years after the last payment of benefits. If basic or added reparation benefits have been paid for loss suffered by an injured person before his death resulting from the injury, an action for survivor's benefits may be commenced not later than one (1) year after the death or four (4) years after the last payment of benefits, whichever is earlier.

(3) If timely action for basic reparation benefits is commenced against a reparation obligor and benefits are denied because of a determination that the reparation obligor's coverage is not applicable to the claimant under the provisions on priority of applicability of basic reparation security, an action against the applicable reparation obligor or the assigned claims bureau may be commenced not later than sixty (60) days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as subsections (1), (2), or (3) of this section prescribe a longer period, an action by a claimant on an assigned claim which has been timely presented may be commenced not later than sixty (60) days after the claimant received written notice of rejection of the claim by the reparation obligor to which it was assigned.

(5) If a person entitled to basic or added reparation benefits is under legal disability when the right to bring an action for the benefits first accrues, the period of his disability is a part of the time limited for commencement of the action.

(6) An action for tort liability not abolished by KRS 304.39-060***, including, but not limited to, an action for loss of consortium under KRS 411.145 arising from the same injury or death,*** may be commenced not later than two (2) years after the injury, or the death, or the last basic or added reparation payment made by any reparation obligor, whichever later occurs.

Section 2. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one year after the cause of action accrued:

(a) ***Except as provided in KRS 304.39-230,*** an action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice or servant.

(b) An action for injuries to persons, cattle or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216.

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation or breach of promise of marriage.

(d) An action for libel or slander.

(e) An action against a physician, surgeon, dentist or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice.

(f) An action for the escape of a prisoner, arrested or imprisoned on civil process.

(g) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either.

(h) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession.

(i) An action for the recovery of damages or the value of stolen property, against the thief or any accessory.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five years from the date on which the alleged negligent act or omission is said to have occurred.

(3) In respect to the action referred to in paragraph (g) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

**HB 795,** AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 21.370 is amended to read as follows:

***(1)*** Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

***(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Employees' Retirement System. If the member elects to transfer his Kentucky Employees' Retirement System service credit, that system shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the***

***date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred by the Kentucky Employees' Retirement System and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan.***

Section 2. KRS 21.345 is amended to read as follows:

(1) For the purposes of KRS 21.350 to 21.510, "retirement" means a voluntary resignation or a failure of re-election, but does not include a removal for cause.

(2) The word "service" as used in KRS 21.370 to 21.480 means ***service transferred from the Kentucky Employees' Retirement System pursuant to KRS 21.370(2), and*** service as a justice of the Supreme Court, as a judge of the Court of Appeals created by Section 111 of the Constitution of Kentucky, as a regular circuit judge, or as a regular judge of the District Court, including service in one (1) and then another of those capacities. It also includes service as a special circuit judge under the conditions described in subsection (3) of this section, as a judge or commissioner of the former Court of Appeals, or as director of the Administrative Office of the Courts, prior to January 1, 1976, and service continuing beyond that date, in any capacity in or for the Court of Justice, by any person who held the office of commissioner of the former Court of Appeals, or director of the Administrative Office of the Courts, on December 31, 1975. The word "service" embraces only service performed while a member of the retirement system established by KRS 21.350 to 21.510, except that service in any of the positions hereinabove mentioned, before the Judicial Retirement System was made applicable to that category of position, ***and service transferred from the Kentucky Employees' Retirement System pursuant to KRS 21.370(2),*** shall be included.

(3) For the purposes of KRS 21.345 to 21.510, a "year" of service means a total of twelve (12) months of service, which need not be in the same calendar year. Service for any part of the calendar month in which the member's term of service begins or ends shall be deemed to constitute a month of service.

(4) The provisions of this section shall not apply to any director of the Administrative Office of the Courts appointed after January 1, 1976, nor shall they apply to any commissioner of the Court of Appeals not appointed prior to January 1, 1976. The administrative director of the courts and commissioners of the Court of Appeals appointed prior to January 1, 1976, shall continue to be members of the system so long as they continue to render service in any capacity in or for the Court of Justice.

The Committee Substitute to **HB 795** is as follows:

**HB 795**, AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 21.370 is amended to read as follows:

***(1)*** Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

***(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Employees' Retirement System. If the member elects to transfer his Kentucky Employees' Retirement System service credit, that system shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred by the Kentucky Employees' Retirement System and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan.***

Section 2. KRS 21.345 is amended to read as follows:

(1) For the purposes of KRS 21.350 to 21.510, "retirement" means a voluntary resignation or a failure of re-election, but does not include a removal for cause.

(2) The word "service" as used in KRS 21.370 to 21.480 means ***service transferred from the Kentucky***

***Employees' Retirement System pursuant to KRS 21.370(2), and*** service as a justice of the Supreme Court, as a judge of the Court of Appeals created by Section 111 of the Constitution of Kentucky, as a regular circuit judge, or as a regular judge of the District Court, including service in one (1) and then another of those capacities. It also includes service as a special circuit judge under the conditions described in subsection (3) of this section, as a judge or commissioner of the former Court of Appeals, or as director of the Administrative Office of the Courts, prior to January 1, 1976, and service continuing beyond that date, in any capacity in or for the Court of Justice, by any person who held the office of commissioner of the former Court of Appeals, or director of the Administrative Office of the Courts, on December 31, 1975. The word "service" embraces only service performed while a member of the retirement system established by KRS 21.350 to 21.510, except that service in any of the positions hereinabove mentioned, before the Judicial Retirement System was made applicable to that category of position, ***and service transferred from the Kentucky Employees' Retirement System pursuant to KRS 21.370(2),*** shall be included.

(3) For the purposes of KRS 21.345 to 21.510, a "year" of service means a total of twelve (12) months of service, which need not be in the same calendar year. Service for any part of the calendar month in which the member's term of service begins or ends shall be deemed to constitute a month of service.

(4) The provisions of this section shall not apply to any director of the Administrative Office of the Courts appointed after January 1, 1976, nor shall they apply to any commissioner of the Court of Appeals not appointed prior to January 1, 1976. The administrative director of the courts and commissioners of the Court of Appeals appointed prior to January 1, 1976, shall continue to be members of the system so long as they continue to render service in any capacity in or for the Court of Justice.

Section 3. KRS 6.515 is amended to read as follows:

(1) Service credit in the legislators' retirement plan can be acquired only by service as a legislator after July 1, 1980 while a member of the plan, [~~or~~] by transfer of credit as provided in KRS 6.505***, or by transfer of credit as provided in subsection (5) of this section.***

(2) If spouses both serve in the general assembly, but not simultaneously, they may combine their service credit in the legislators' retirement plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(3) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(4) A former legislator whose spouse currently serves in the general assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and such service credit shall become part of the single account authorized by subsection (2) of this section.

***(5) A member who has qualified for benefits pursuant to KRS 6.525(1) may, until July 1, 1991, transfer to the Legislators Retirement Plan up to ten (10) years of service credit which he has earned in the County Employees' Retirement System. If the member elects to transfer his County Employees' Retirement System service credit, that system shall transfer to the Legislators Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the County Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred by the County Employees' Retirement System and the cost of the credit to the Legislators Retirement Plan, as determined by the actuary for the Legislators Retirement Plan.***

**HB 889,** AN ACT relating to local government tort liability.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 65.2003 is amended to read as follows:

Notwithstanding KRS 65.2001, a local government shall not be liable for injuries or losses resulting from:

(1) Any claim by an employee of the local government which is covered by the Kentucky workers' compensation law;

(2) Any claim in connection with the assessment or collection of taxes;

(3) Any claim arising from the exercise of judicial, quasi-judicial, legislative or quasi-legislative authority or others, exercise of judgment or discretion vested in the local government, which shall include by example, but not be limited to:

(a) The adoption or failure to adopt any ordinance, resolution, order, regulation, or rule;

(b) The failure to enforce any law;

(c) The issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization; ***or***

(d) The exercise of discretion when in the face of competing demands, the local government determines whether and how to utilize or apply existing resources[~~; or~~

~~(e) Failure to make an inspection.~~

~~Nothing contained in this subsection shall be construed to exempt a local government from liability for negligence arising out of acts or omissions of its employees in carrying out their ministerial duties~~].

Section 2. KRS 65.200 is amended to read as follows:

As used in KRS 65.2001 to ***65.2005*** [~~65.2006~~], unless the context otherwise requires:

(1) "Action in tort" means any claim for money damages based upon negligence, medical malpractice, intentional tort, nuisance, products liability and strict liability, and also includes any wrongful death or survival-type action.

(2) "Employe" means any elected or appointed officer of a local government, or any paid or unpaid employee or agent of a local government, provided that no independent contractor nor employee nor agent of an independent contractor shall be deemed to be an employee of a local government.

(3) "Local government" means any city incorporated under the law of this Commonwealth, the offices and agencies thereof, any county government or fiscal court, any special district or special taxing district created or controlled by a local government.

Section 3. KRS 65.2001 is amended to read as follows:

(1) Every action in tort against any local government in this Commonwealth for death, personal injury or property damages proximately caused by:

(a) Any defect or hazardous condition in public lands, buildings or other public property, including personalty;

(b) Any act or omission of any employee, while acting within the scope of his employment or duties; or

(c) Any act or omission of a person other than an employee for which the local government is or may be liable

shall be subject to the provisions of KRS 65.2002 to ***65.2005*** [~~65.2006~~].

(2) Except as otherwise specifically provided in KRS 65.2002 to ***65.2005*** [~~65.2006~~], all enacted and case-made law, substantive or procedural, concerning actions in tort against local governments shall continue in force. No provision of KRS 65.2002 to ***65.2005*** [~~65.2006~~] shall in any way be construed to expand the existing common law concerning municipal tort liability as of July 15, 1988, nor eliminate or abrogate the defense of governmental immunity for county governments.

Section 4. KRS 65.2004 is amended to read as follows:

(1) Upon motion of a local government against which final judgment has been rendered for a claim within the scope of KRS 65.200 to ***65.2005*** [~~65.2006~~], the court, in accordance with subsection (2) of this section, may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over a period of time not exceeding ten (10) years. Any periodic payment, upon becoming due under the terms of the judgment, shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest accruing from the date final judgment is entered, at the interest rate as specified in KRS 360.040. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments, but the total amount of damages awarded

by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(2) A court may order periodic payment only upon finding that:

(a) Payment of the judgment is not totally covered by insurance; and

(b) Funds for the current budget year and other funds of the local government which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance.

Section 5. KRS 96.533 is amended to read as follows:

(1) This section and the applicable provisions of KRS 65.200 to ***65.2005*** [~~65.2006~~] shall apply to any director of any municipal utility board or commission created or operated pursuant to KRS Chapter 96.

(2) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interest of the utility board or commission.

(3) A director shall discharge his duties on an informed basis if he makes inquiry, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, into the business and affairs of the utility board or commission, or into a particular action to be taken or decision to be made.

(4) In discharging his duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employees of the utility board or commission whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(5) A director shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (4) of this section unwarranted.

(6) Any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(7) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (6)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered.

(8) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to July 15, 1988.

Section 6. The following KRS section is repealed:

65.2006 Judgments affected.

Section 7. This Act shall be retroactive to July 15, 1988.

The Committee Substitute to **HB 889** is as follows:

**HB 889**, AN ACT relating to local government tort liability.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 65.2003 is amended to read as follows:

Notwithstanding KRS 65.2001, a local government shall not be liable for injuries or losses resulting from:

(1) Any claim by an employee of the local government which is covered by the Kentucky workers' compensation law;

(2) Any claim in connection with the assessment or collection of taxes;

(3) Any claim arising from the exercise of judicial, quasi-judicial, legislative or quasi-legislative authority or others, exercise of judgment or discretion vested in the local government, which shall include by example, but not be limited to:

(a) The adoption or failure to adopt any ordinance, resolution, order, regulation, or rule;

(b) The failure to enforce any law;

(c) The issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization;

(d) The exercise of discretion when in the face of competing demands, the local government determines whether and how to utilize or apply existing resources; or

(e) Failure to make an inspection.

[~~Nothing contained in this subsection shall be construed to exempt a local government from liability for negligence arising out of acts or omissions of its employees in carrying out their ministerial duties.~~]

Section 2. KRS 65.200 is amended to read as follows:

As used in KRS 65.2001 to ***65.2005*** [~~65.2006~~], unless the context otherwise requires:

(1) "Action in tort" means any claim for money damages based upon negligence, medical malpractice, intentional tort, nuisance, products liability and strict liability, and also includes any wrongful death or survival-type action.

(2) "Employee" means any elected or appointed officer of a local government, or any paid or unpaid employee or agent of a local government, provided that no independent contractor nor employee nor agent of an independent contractor shall be deemed to be an employee of a local government.

(3) "Local government" means any city incorporated under the law of this Commonwealth, the offices and agencies thereof, any county government or fiscal court, any special district or special taxing district created or controlled by a local government.

Section 3. KRS 65.2001 is amended to read as follows:

(1) Every action in tort against any local government in this Commonwealth for death, personal injury or property damages proximately caused by:

(a) Any defect or hazardous condition in public lands, buildings or other public property, including personalty;

(b) Any act or omission of any employee, while acting within the scope of his employment or duties; or

(c) Any act or omission of a person other than an employee for which the local government is or may be liable

shall be subject to the provisions of KRS 65.2002 to ***65.2005*** [~~65.2006~~].

(2) Except as otherwise specifically provided in KRS 65.2002 to ***65.2005*** [~~65.2006~~], all enacted and case-made law, substantive or procedural, concerning actions in tort against local governments shall continue in force. No provision of KRS 65.2002 to ***65.2005*** [~~65.2006~~] shall in any way be construed to expand the existing common law concerning municipal tort liability as of July 15, 1988, nor eliminate or abrogate the defense of governmental immunity for county governments.

Section 4. KRS 65.2004 is amended to read as follows:

(1) Upon motion of a local government against which final judgment has been rendered for a claim within the scope of KRS 65.200 to ***65.2005*** [~~65.2006~~], the court, in accordance with subsection (2) of this

section, may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over a period of time not exceeding ten (10) years. Any periodic payment, upon becoming due under the terms of the judgment, shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest accruing from the date final judgment is entered, at the interest rate as specified in KRS 360.040. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments, but the total amount of damages awarded by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(2) A court may order periodic payment only upon finding that:

(a) Payment of the judgment is not totally covered by insurance; and

(b) Funds for the current budget year and other funds of the local government which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance.

Section 5. KRS 96.533 is amended to read as follows:

(1) This section and the applicable provisions of KRS 65.200 to ***65.2005*** [~~65.2006~~] shall apply to any director of any municipal utility board or commission created or operated pursuant to KRS Chapter 96.

(2) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interest of the utility board or commission.

(3) A director shall discharge his duties on an informed basis if he makes inquiry, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, into the business and affairs of the utility board or commission, or into a particular action to be taken or decision to be made.

(4) In discharging his duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employees of the utility board or commission whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(5) A director shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (4) of this section unwarranted.

(6) Any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(7) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (6)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered.

(8) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to July 15, 1988.

Section 6. The following KRS section is repealed:

65.2006 Judgments affected.

Section 7. This Act shall be retroactive to July 15, 1988.

The Committee Amendment No. 1 to **HB 889** is as follows:

Amend printed copy of HCS to **HB 889** on page 7, after line 4 and before line 5, by adding the following new section:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 453 IS CREATED TO READ AS FOLLOWS:

***(1) Unless otherwise prohibited by statute, any person may bring a legal action against a city, county, urban-county, special district, or any agency thereof to ensure compliance with any statute, ordinance, or administrative regulation.***

***(2) If the city, county, urban-county, special district, or agency is found to be not in compliance with the statute, ordinance or administrative regulation, it shall be liable for all reasonable and necessary costs and attorney's fees incurred by the plaintiff in the action.***"; and

On page 7, line 5, by renumbering "Section 6" as "Section 7"; and

On page 7, line 7, by renumbering "Section 7" as "Section 8".

**SB 51.** AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

***(1) In any case where a fine or imprisonment, or both is an authorized penalty and where imprisonment is not required by the statute relating to the crime committed, a court may, as a form of conditional discharge, sentence the defendant to work at community service related projects subject to the following terms and conditions:***

***(a) As used in this section, community service related project means work for the state or an agency thereof, for a county, urban county government, city, special district, or an agency thereof or for a nonreligious sponsored nonprofit, charitable, or service organization. Work on a community service related project shall not confer a private benefit on a person except as may be incidental to the public benefit.***

***(b) Before a defendant may be sentenced to a particular community service related project, the director of the agency or unit of government, or his designee, shall approve or disapprove, in writing, the defendant's work for that agency or unit of government. If the designated person refuses to accept the defendant, he shall not be sentenced to work for that agency. If possible, another agency shall be found which will accept the defendant. If no agency accepts the defendant, he shall be resentenced to an appropriate sentence authorized by law.***

***(c) No defendant shall be sentenced to unduly hazardous work that would endanger the life or health of the defendant or others.***

***(d) Any defendant may, for valid medical reason, decline to work on community service related projects. In this case, he shall be sentenced to another penalty authorized by law.***

***(e) The order of the sentencing court shall specify the agency for which the defendant shall work, the manner in which the defendant shall be worked, and the terms and conditions thereof. The agency shall provide the court with reports as to the defendant's labor and compliance with the terms of the sentence.***

***(f) If insurance is available, a defendant may pay the cost of health and accident insurance for the time he is engaged in a community service related project. This subsection shall not apply when the defendant has such insurance, if the defendant does not desire to obtain insurance or if insurance is either unavailable or beyond the means of the defendant to pay. The Commonwealth, a unit of government, a special district, or agency for which a defendant engages in community service related work shall not be liable for accidents, or medical, health, or other costs incurred by the defendant.***

***(g) Participation in community services related projects shall not be deemed employment for any purpose, and the defendant shall not be deemed an employee or agent of the entity for which he performs the community service work.***

***(h) The defendant, not the Commonwealth, a unit of government, special district, or agency for which he engages in community service related work, shall be liable for all of his actions or omissions. The defendant shall sign a release to this effect.***

***(i) If a defendant fails, without good cause, to show for work and labor according to the conditions of his sentence, the agency for which he is working shall immediately report his failure to show for work or to work in accordance with the conditions of this sentence to the court.***

***(2) If the defendant fails to show for work, fails to labor in accordance with the conditions of his sentence, or is terminated from his community service related work for any reason, the court shall hold a hearing to determine the cause of the noncompliance and may, if the noncompliance is the fault of the defendant, resentence the defendant to a penalty or combination of penalties authorized for the commission of the offense. If the noncompliance is not caused by the defendant or the defendant has a legitimate reason therefor, the court may find another agency or unit of government for which the defendant may labor or, regardless of the reason for noncompliance, continue the defendant in the community service related work program.***

***(3) The length of time a defendant may be sentenced to a community service related work program shall not exceed:***

***(a) The length of the maximum imprisonment which is authorized for the commission of the offense, and in no case shall exceed five (5) years regardless of how many days the defendant works during that time.***

***(b) Ninety (90) days in the case of an offense for which a fine only or some penalty other than imprisonment is authorized.***

***A day shall mean a calendar day or combination thereof during which the defendant engages in eight (8) hours of labor at a community service related work program.***

***(4) While a prisoner may be sentenced to labor less time during a day, no prisoner shall be sentenced to work more than eight (8) hours in any one (1) day. While a prisoner may be sentenced to labor less time during a week, no prisoner shall be sentenced to work more than five (5) days during any one (1) week.***

***(5) The Administrative Office of the Courts shall, with the approval of the Supreme Court, print and distribute all forms necessary for the community service related work program authorized by this section.***

***(6) A court sentencing a defendant to a community service related work program shall, where possible, preserve the ordinary employment or educational programs in which the defendant is engaged by sentencing him to work at times other than those in which he is engaged in his regular employment or education.***

Section 2. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation or conditional discharge should be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime; [~~or~~]

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

***(3) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in Section 1 of this Act. Work at community service related projects shall be considered as a form of conditional discharge.***

Section 3. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; and

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work ***as specified in Section 1 of this Act*** [~~for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim~~]. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employe for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(5) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 4. The following KRS section is repealed:

431.140 Option of working prisoner at community service related project or at hard labor.

The House Committee Substitute to **SB 51** is as follows:

**SB 51**, AN ACT relating to crimes and punishments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

***(1) In any case where imprisonment is an authorized penalty and where imprisonment is not required by the statute relating to the crime committed, a court may, as a form of conditional discharge, sentence the defendant to work at community service related projects subject to the following terms and conditions:***

***(a) As used in this section, community service related project means work for the state or an agency thereof, for a county, urban county government, city, special district, or an agency thereof or for a nonreligious sponsored nonprofit, charitable, or service organization. Work on a community service related project shall not confer a private benefit on a person except as may be incidental to the public benefit.***

***(b) Before a defendant may be sentenced to a particular community service related project, the director of the agency or unit of government, or his designee, shall approve or disapprove, in writing, the defendant's work for that agency or unit of government. If the designated person refuses to accept the defendant, he shall not be sentenced to work for that agency. If possible, another agency shall be found which will accept the defendant. If no agency accepts the defendant, he shall be resentenced to an appropriate sentence authorized by law.***

***(c) No defendant shall be sentenced to unduly hazardous work that would endanger the life or health of the defendant or others.***

***(d) Any defendant may, for valid medical reason, decline to work on community service related projects. In this case, he shall be sentenced to another penalty authorized by law.***

***(e) The order of the sentencing court shall specify the agency for which the defendant shall work, the manner in which the defendant shall be worked, and the terms and conditions thereof. The agency shall provide the court with reports as to the defendant's labor and compliance with the terms of the sentence.***

***(f) If insurance is available, a defendant may pay the cost of health and accident insurance for the time he is engaged in a community service related project. This subsection shall not apply when the defendant has such insurance, if the defendant does not desire to obtain insurance or if insurance is either unavailable or beyond the means of the defendant to pay. The Commonwealth, a unit of government, a special district, or agency for which a defendant engages in community service related work shall not be liable for accidents, or medical, health, or other costs incurred by the defendant.***

***(g) Participation in community services related projects shall not be deemed employment for any purpose, and the defendant shall not be deemed an employee or agent of the entity for which he performs the community service work.***

***(h) The defendant, not the Commonwealth, a unit of government, special district, or agency for which he engages in community service related work, shall be liable for all of his actions or omissions. The defendant shall sign a release to this effect.***

***(i) If a defendant fails, without good cause, to show for work and labor according to the conditions of his sentence, the agency for which he is working shall immediately report his failure to show for work or to work in accordance with the conditions of this sentence to the court.***

***(2) If the defendant fails to show for work, fails to labor in accordance with the conditions of his sentence, or is terminated from his community service related work for any reason, the court shall hold a hearing to determine the cause of the noncompliance and may, if the noncompliance is the fault of the defendant, resentence the defendant to a penalty or combination of penalties authorized for the commission of the offense. If the noncompliance is not caused by the defendant or the defendant has a legitimate reason therefor, the court may find another agency or unit of government for which the defendant may labor or, regardless of the reason for noncompliance, continue the defendant in the community service related work program.***

***(3) The length of time a defendant may be sentenced to a community service related work program shall not exceed:***

***(a) The length of the maximum imprisonment which is authorized for the commission of the offense, and in no case shall exceed five (5) years regardless of how many days the defendant works during that time.***

***(b) Ninety (90) days in the case of an offense for which a fine only or some penalty other than imprisonment is authorized.***

***A day shall mean a calendar day or combination thereof during which the defendant engages in eight (8) hours of labor at a community service related work program.***

***(4) While a prisoner may be sentenced to labor less time during a day, no prisoner shall be sentenced to work more than eight (8) hours in any one (1) day. While a prisoner may be sentenced to labor less time during a week, no prisoner shall be sentenced to work more than five (5) days during any one (1) week.***

***(5) The Administrative Office of the Courts shall, with the approval of the Supreme Court, print and distribute all forms necessary for the community service related work program authorized by this section.***

***(6) A court sentencing a defendant to a community service related work program shall, where possible, preserve the ordinary employment or educational programs in which the defendant is engaged by sentencing him to work at times other than those in which he is engaged in his regular employment or education.***

Section 2. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation or conditional discharge should be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime; [~~or~~]

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

***(3) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in Section 1 of this Act. Work at community service related projects shall be considered as a form of conditional discharge.***

Section 3. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; and

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work ***as specified in Section 1 of this Act*** [~~for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim~~]. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employe for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(5) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 4. The following KRS section is repealed:

431.140 Option of working prisoner at community service related project or at hard labor.

**SB 103,** AN ACT relating to leases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

### ***PART 1. GENERAL PROVISIONS***

SECTION 1. ARTICLE 2A OF KRS CHAPTER 355 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***This article shall be known and may be cited as the Uniform Commercial Code — Leases.***

SECTION 2. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***This article applies to any transaction, regardless of form, that creates a lease.***

SECTION 3. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) In this article unless the context otherwise requires:***

***(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.***

***(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.***

***(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.***

***(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.***

***(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee, except an organization, who takes under the lease primarily for a personal, family, or household purpose.***

***(f) "Fault" means wrongful act, omission, breach, or default.***

***(g) "Finance lease" means a lease in which:***

***1. The lessor does not select, manufacture or supply the goods;***

*2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and*

*3. Either the lessee receives a copy of the contract evidencing the lessor's purchase of the goods on or before signing the lease contract, or the lessee's approval of the contract evidencing the lessor's purchase of the goods is a condition to effectiveness of the lease contract.*

*(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (Section 39 of this Act), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.*

*(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.*

*(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.*

*(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.*

*(1) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.*

*(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.*

*(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.*

*(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.*

*(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.*

*(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.*

*(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.*

*(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.*

*(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.*

*(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.*

*(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.*

*(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.*

*(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.*

*(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.*

*(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.*

*(2) Other definitions applying to this article and the sections in which they appear are:*

*"Accessions". Subsection (1) of Section 40 of this Act.*

*"Construction mortgage". Subsection (1)(d) of Section 39 of this Act.*

*"Encumbrance". Subsection (1)(e) of Section 39 of this Act.*

*"Fixtures". Subsection (1)(a) of Section 39 of this Act.*

*"Fixture filing". Subsection (1)(b) of Section 39 of this Act.*

*"Purchase money lease". Subsection (1)(c) of Section 39 of this Act.*

*(3) The following definitions in other articles apply to this article:*

*"Accounts". KRS 355.9-106.*

*"Between merchants". KRS 355.2-104(3).*

*"Buyer". KRS 355.2-103(1)(a).*

*"Chattel paper". KRS 355.9-105(1)(b).*

*"Consumer goods". KRS 355.9-109(1).*

*"Documents". KRS 355.9-105(1)(f).*

*"Entrusting". KRS 355.2-403(3).*

*"General intangibles". KRS 355.9-106.*

*"Good faith". KRS 355.2-103(1)(b).*

*"Instruments". KRS 355.9-105(1)(i).*

*"Merchant". KRS 355.2-104(1).*

*"Mortgage". KRS 355.9-105(1)(j).*

*"Pursuant to commitment". KRS 355.9-105(1)(k).*

*"Receipt". KRS 355.2-103(1)(c).*

*"Sale". KRS 355.2-106(1).*

*"Sale on Approval". KRS 355.2-326.*

*"Sale or Return". KRS 355.2-326.*

*"Seller". KRS 355.2-103(1)(d).*

*(4) In addition Article I contains general definitions and principles of construction and interpretation applicable throughout this article.*

SECTION 4. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) A lease, although subject to this article, is also subject to any applicable:*

*(a) Statute of the United States;*

*(b) Certificate of title statute of this state;*

***(c) Certificate of title statute of another jurisdiction (Section 5 of this Act); or***

***(d) Consumer protection statute of this state.***

***(2) In case of conflict between the provisions of this article, other than Section 5, subsection (3) of Section 34, and subsection (3) of Section 35 of this Act, and any statute referred to in subsection (1), the provisions of that statute control.***

***(3) Failure to comply with any applicable statute has only the effect specified therein.***

SECTION 5. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Subject to the provisions of subsection (3) of Section 34 and subsection (3) of Section 35 of this Act, with respect to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction, compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until the earlier of (a) surrender of the certificate, or (b) four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.***

SECTION 6. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement becomes enforceable or within thirty (30) days thereafter or in which the goods are to be used, the choice is not enforceable.***

***(2) If the judicial forum chosen by the parties to a consumer lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.***

SECTION 7. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.***

SECTION 8. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) If the court as a matter of law finds a lease contract or any clause of a lease contract to have been unconscionable at the time it was made, the court may refuse to enforce the lease contract, or it may enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result***

***(2) With respect to a consumer lease, if the court as a matter of law finds that a lease contract or any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct has occurred in the collection of a claim arising from a lease contract, the court may grant appropriate relief.***

***(3) Before making a finding of unconscionability under subsection (1) or (2), the court, on its own motion or that of party, shall afford the parties a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease contract or clause thereof, or of the conduct.***

***(4) In an action in which the lessee claims unconscionability with respect to a consumer lease:***

***(a) If the court finds unconscionability under subsection (1) or (2), the court shall award reasonable attorney's fees to the lessee.***

***(b) If the court does not find unconscionability, the court may award reasonable attorney's fees to the party against whom the claim is made.***

***(c) In determining attorney's fees, the amount of the recovery on behalf of the claimant under subsections (1) and (2) is not controlling.***

SECTION 9. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) A term providing that one party or his successor in interest may accelerate payment or performance***

***or require collateral or additional collateral "at will" or "when he deems himself insecure" or in words of similar import must be construed to mean that he has power to do so only if he in good faith believes that the prospect of payment or performance is impaired.***

***(2) With respect to a consumer lease, the burden of establishing good faith under subsection (1) is on the party who exercised the power; otherwise the burden of establishing lack of good faith is on the party against whom the power has been exercised.***

### *PART 2. FORMATION AND CONSTRUCTION OF LEASE CONTRACT*

SECTION 10. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) A lease contract is not enforceable by way of action or defense unless:***

***(a) The total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than five hundred dollars ($500); or***

***(b) There is a writing, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.***

***(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b), whether or not it is specific, if it reasonably identifies what is described.***

***(3) A writing is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and the quantity of goods shown in the writing.***

***(4) A lease contract that does not satisfy the requirements of subsection (1), but which is valid in other respects, is enforceable:***

***(a) If the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;***

***(b) If the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or***

***(c) With respect to goods that have been received and accepted by the lessee.***

***(5) The lease term under a lease contract referred to in subsection (4) is:***

***(a) If there is a writing signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;***

***(b) If the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or***

***(c) A reasonable lease term.***

SECTION 11. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:***

***(a) By course of dealing or usage of trade or by course of performance; and***

***(b) By evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.***

SECTION 12. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***The affixing of a seal to a writing evidencing a lease contract or an offer to enter into a lease contract does not render the writing a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.***

SECTION 13. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) A lease contract may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of a lease contract.***

***(2) An agreement sufficient to constitute a lease contract may be found although the moment of its making is undetermined.***

***(3) Although one or more terms are left open, a lease contract does not fail for indefiniteness if the parties have intended to make a lease contract and there is a reasonably certain basis for giving an appropriate remedy.***

SECTION 14. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***An offer by a merchant to lease goods to or from another person in a signed writing that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three (3) months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.***

SECTION 15. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Unless otherwise unambiguously indicated by the language or circumstances, an offer to make a lease contract must be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances.***

***(2) If the beginning of a requested performance is a reasonable mode of acceptance, an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.***

SECTION 16. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.***

***(2) The express terms of a lease agreement and any course of performance, as well as any course of dealing and usage of trade, must be construed whenever reasonable as consistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.***

***(3) Subject to the provisions of Section 17 of this Act on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.***

SECTION 17. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) An agreement modifying a lease contract needs no consideration to be binding.***

***(2) A signed lease agreement that excludes modification or rescission except by a signed writing may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.***

***(3) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2), it may operate as a waiver.***

***(4) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.***

SECTION 18. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) The benefit of the supplier's promises to the lessor under the supply contract and of all warranties, whether express or implied, under the supply contract, extends to the lessee to the extent of the lessee's leasehold interest under a finance lease related to the supply contract, but subject to the terms of the supply contract and all of the supplier's defenses or claims arising therefrom.***

***(2) The extension of the benefit of the supplier's promises and warranties to the lessee (subsection (1) of Section 18 of this Act) does not:***

***(a) Modify the rights and obligations of the parties to the supply contract, whether arising therefrom or otherwise, or***

***(b) Impose any duty or liability under the supply contract on the lessee.***

***(3) Any modification or rescission of the supply contract by the supplier and the lessor is effective against the lessee unless, prior to the modification or rescission, the supplier has received notice that the lessee has entered into a finance lease related to the supply contract. If the supply contract is modified or rescinded after the lessee enters the finance lease, the lessee has a cause of action against the lessor, and against the supplier if the supplier has notice of the lessee's entering the finance lease when the supply contract is modified or rescinded. The lessee's recovery from such action shall put the lessee in as good a position as if the modification or rescission had not occurred.***

SECTION 19. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Express warranties by the lessor are created as follows:***

***(a) Any affirmation of fact or promise made by the lessor to the lessee which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods will conform to the affirmation or promise.***

***(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods will conform to the description.***

***(c) Any sample or model that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model.***

***(2) It is not necessary to the creation of an express warranty that the lessor use formal words, such as "warrant" or "guarantee," or that the lessor have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the lessor's opinion or commendation of the goods does not create a warranty.***

SECTION 20. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) There is in a lease contract a warranty that for the lease term no person holds a claim to or interest in the goods that arose from an act or omission of the lessor, other than a claim by way of infringement or the like, which will interfere with the lessee's enjoyment of its leasehold interest.***

***(2) Except in a finance lease there is in a lease contract by a lessor who is a merchant regularly dealing in goods of the kind a warranty that the goods are delivered free of the rightful claim of any person by way of infringement or the like.***

***(3) A lessee who furnishes specifications to a lessor or a supplier shall hold the lessor and the supplier harmless against any claim by way of infringement or the like that arises out of compliance with the specifications.***

SECTION 21. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Except in a finance lease, a warranty that the goods will be merchantable is implied in a lease contract if the lessor is a merchant with respect to goods of that kind.***

***(2) Goods to be merchantable must be at least such as:***

***(a) Pass without objection in the trade under the description in the lease agreement;***

***(b) In the case of fungible goods, are of fair average quality within the description;***

***(c) Are fit for the ordinary purposes for which goods of that type are used;***

***(d) Run, within the variation permitted by the lease agreement, of even kind, quality, and quantity within each unit and among all units involved;***

***(e) Are adequately contained, packaged, and labeled as the lease agreement may require; and***

***(f) Conform to any promises or affirmations of fact made on the container or label.***

***(3) Other implied warranties may arise from course of dealing or usage of trade.***

SECTION 22. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Except in a finance lease, if the lessor at the time the lease contract is made has reason to know of any particular purpose for which the goods are required and that the lessee is relying on the lessor's skill or judgment to select or furnish suitable goods, there is in the lease contract an implied warranty that the goods will be fit for that purpose.***

SECTION 23. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit a warranty must be construed wherever reasonable as consistent with each other; but, subject to the provisions of Section 11 of this Act on parole or extrinsic evidence, negation or limitation is inoperative to the extent that the construction is unreasonable.***

***(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention "merchantability", be by a writing, and be conspicuous. Subject to subsection (3), to exclude or modify any implied warranty of fitness the exclusion must be by a writing and be conspicuous. Language to exclude all implied warranties of fitness is sufficient if it is in writing, is conspicuous and states, for example, "There is no warranty that the goods will be fit for a particular purpose".***

***(3) Notwithstanding subsection (2), but subject to subsection (4):***

***(a) Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is," or "with all faults" or by other language that in common understanding calls the lessee's attention to the exclusion of warranties and makes plain that there is no implied warranty, if in writing and conspicuous;***

***(b) If the lessee before entering into the lease contract has examined the goods or the sample or model as fully as desired or has refused to examine the goods, there is no implied warranty with regard to defects that an examination ought in the circumstances to have revealed; and***

***(c) An implied warranty may also be excluded or modified by course of dealing, course of performance, or usage of trade.***

***(4) To exclude or modify a warranty against interference or against infringement (Section 20 of this Act) or any part of it, the language must be specific, be by a writing, and be conspicuous, unless the circumstances, including course of performance, course of dealing, or usage of trade, give the lessee reason to know that the goods are being leased subject to a claim or interest of any person.***

SECTION 24. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Warranties, whether express or implied, must be construed as consistent with each other and as cumulative, but if that construction is unreasonable, the intention of the parties determines which warranty is dominant. In ascertaining that intention the following rules apply:***

***(a) Exact or technical specifications displace an inconsistent sample or model or general language of description.***

***(b) A sample from an existing bulk displaces inconsistent general language of description.***

***(c) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.***

SECTION 25. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***A warranty to or for the benefit of a lessee under this article, whether express or implied, extends to***

***any natural person who is in the family or household of the lessee or who is a guest in the lessee's home if it is reasonable to expect that such person may use, consume, or be affected by the goods and who is injured in person by breach of the warranty. This section does not displace principles of law and equity that extend a warranty to or for the benefit of a lessee to other persons. The operation of this section may not be excluded, modified, or limited, but an exclusion, modification, or limitation of the warranty, including any with respect to rights and remedies, effective against the lessee is also effective against any beneficiary designated under this section.***

SECTION 26. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Identification of goods as goods to which a lease contract refers may be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement, identification occurs:***

***(a) When the lease contract is made if the lease contract is for a lease of goods that are existing and identified;***

***(b) When the goods are shipped, marked, or otherwise designated by the lessor as goods to which the lease contract refers, if the lease contract is for a lease of goods that are not existing and identified; or***

***(c) When the young are conceived, if the lease contract is for a lease of unborn young of animals.***

SECTION 27. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) A lessee obtains an insurable interest when existing goods are identified to the lease contract even though the goods identified are nonconforming and the lessee has an option to reject them.***

***(2) If a lessee has an insurable interest only by reason of the lessor's identification of the goods, the lessor, until default or insolvency or notification to the lessee that identification is final, may substitute other goods for those identified.***

***(3) Notwithstanding a lessee's insurable interest under subsections (1) and (2), the lessor retains an insurable interest until an option to buy has been exercised by the lessee and risk of loss has passed to the lessee.***

***(4) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.***

***(5) The parties by agreement may determine that one or more parties have an obligation to obtain and pay for insurance covering the goods and by agreement may determine the beneficiary of the proceeds of the insurance.***

SECTION 28. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Except in the case of a finance lease, risk of loss is retained by the lessor and does not pass to the lessee. In the case of a finance lease, risk of loss passes to the lessee.***

***(2) Subject to the provisions of this article on the effect of default on risk of loss (Section 29 of this Act), if risk of loss is to pass to the lessee and the time of passage is not stated, the following rules apply:***

***(a) If the lease contract requires or authorizes the goods to be shipped by carrier:***

***1. And it does not require delivery at a particular destination, the risk of loss passes to the lessee when the goods are duly delivered to the carrier; but***

***2. If it does require delivery at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the lessee when the goods are there duly so tendered as to enable the lessee to take delivery.***

***(b) If the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the lessee on acknowledgement by the bailee of the lessee's right to possession of the goods.***

***(c) In any case not within subsection (a) or (b), the risk of loss passes to the lessee on the lessee's receipt of the goods if the lessor, or, in the case of a finance lease, the supplier, is a merchant; otherwise the risk passes to the lessee on tender of delivery.***

SECTION 29. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Where risk of loss is to pass to the lessee and the time of passage is not stated:***

***(a) If a tender or delivery of goods so fails to conform to the lease contract as to give a right of rejection, the risk of their loss remains with the lessor, or, in the case of a finance lease, the supplier, until cure or acceptance.***

***(b) If the lessee rightfully revokes acceptance, he, to the extent of any deficiency in his effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.***

***(2) Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or, in the case of a finance lease, the supplier, to the extent of any deficiency in his effective insurance coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.***

SECTION 30. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***If a lease contract requires goods identified when the lease contract is made, and the goods suffer casualty without fault of the lessee, the lessor or the supplier before delivery, or the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or Section 28 of this Act, then:***

***(a) If the loss is total, the lease contract is avoided; and***

***(b) If the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at his option either treat the lease contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.***

### ***PART 3. EFFECT OF LEASE CONTRACT***

SECTION 31. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Except as otherwise provided in this article, a lease contract is effective and enforceable according to its terms between the parties, against purchasers of the goods and against creditors of the parties.***

SECTION 32. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Except as otherwise provided in this article, each provision of this article applies whether the lessor or a third party has title to the goods, and whether the lessor, the lessee, or a third party has possession of the goods, notwithstanding any statute or rule of law that possession or the absence of possession is fraudulent.***

SECTION 33. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Any interest of a party under a lease contract and the lessor's residual interest in the goods may be transferred unless:***

***(a) The transfer is voluntary and the lease contract prohibits the transfer; or***

***(b) The transfer materially changes the duty of or materially increases the burden or risk imposed on the other party to the lease contract, and within a reasonable time after notice of the transfer the other party demands that the transferee comply with subsection (2) and the transferee fails to comply.***

***(2) Within a reasonable time after demand pursuant to subsection (1)(b), the transferee shall:***

***(a) Cure or provide adequate assurance that he will promptly cure any default other than one arising from the transfer;***

***(b) Compensate or provide adequate assurance that he will promptly compensate the other party to the lease contract and any other person holding an interest in the lease contract, except the party whose interest is being transferred, for any loss to that party resulting from the transfer;***

*(c) Provide adequate assurance of future due performance under the lease contract; and*

*(d) Assume the lease contract.*

*(3) Demand pursuant to subsection (1)(b) is without prejudice to the other party's rights against the transferee and the party whose interest is transferred.*

*(4) An assignment of "the lease" or of "all my rights under the lease" or an assignment in similar general terms is a transfer of rights, and unless the language or the circumstances, as in an assignment for security, indicate the contrary, the assignment is a delegation of duties by the assignor to the assignee and acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the lease contract.*

*(5) Unless otherwise agreed by the lessor and the lessee, no delegation of performance relieves the assignor as against the other party of any duty to perform or any liability for default.*

*(6) A right to damages for default with respect to the whole lease contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.*

*(7) To prohibit the transfer of an interest of a party under a lease contract, the language of prohibition must be specific, by a writing, and conspicuous.*

SECTION 34. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Subject to the provisions of subsection (33) of this Act, a subsequent lessee from a lessor of goods under an existing lease contract obtains, to the extent of the leasehold interest transferred, the leasehold interest in the goods that the lessor had or had power to transfer, and except as provided in subsection (2) of this section and subsection (4) of Section 74 of this Act, takes subject to the existing lease contract. A lessor with voidable title has power to transfer a good leasehold interest to a good faith subsequent lessee for value, but only to the extent set forth in the preceding sentence. When goods have been delivered under a transaction of purchase, the lessor has that power even though:*

*(a) The lessor's transferer was deceived as to the identity of the lessor;*

*(b) The delivery was in exchange for a check which is later dishonored;*

*(c) It was agreed that the transaction was to be a "cash sale"; or*

*(d) The delivery was procured through fraud punishable as larcenous under the criminal law.*

*(2) A subsequent lessee in the ordinary course of business from a lessor who is a merchant dealing in goods of that kind to whom the goods were entrusted by the existing lessee before the interest of the subsequent lessee became enforceable against the lessor obtains, to the extent of the leasehold interest transferred, all of the lessor's and the existing lessee's rights to the goods, and takes free of the existing lease contract.*

*(3) A subsequent lessee from the lessor of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this state or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.*

SECTION 35. A NEW SECTION OF ARTICLE 2 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Subject to the provisions of Section 33 of this Act, a buyer or sublessee from the lessee of goods under an existing lease contract obtains, to the extent of the interest transferred, the leasehold interest in the goods that the lessee had or had power to transfer, and except as provided in subsection (2) of this section and subsection (4) of Section 58 of this Act, takes subject to the existing lease contract. A lessee with a voidable leasehold interest has power to transfer a good leasehold interest to a good faith buyer for value or a good faith sublessee for value, but only to the extent set forth in the preceding sentence. When goods have been delivered under a transaction of lease, the lessee has that power even though:*

*(a) The lessor was deceived as to the identity of the lessee;*

*(b) The delivery was in exchange for a check which is later dishonored; or*

*(c) The delivery was procured through fraud punishable as larcenous under the criminal law.*

*(2) A buyer in the ordinary course of business or a sublessee in the ordinary course of business from*

***a lessee who is a merchant dealing in goods of that kind to whom the goods were entrusted by the lessor obtains, to the extent of the interest transferred, all of the lessor's and lessee's rights to the goods, and takes free of the existing lease contract.***

***(3) A buyer or sublessee from the lessee of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this state or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.***

SECTION 36. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***If a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a lease contract, a lien upon those goods in the possession of that person given by statute or rule of law for those materials or services takes priority over any interest of the lessor or lessee under the lease contract or this article unless the lien is created by statute and the statute provides otherwise or unless the lien is created by rule of law and the rule of law provides otherwise.***

SECTION 37. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in Section 36 of this Act, a creditor of a lessee takes subject to the lease contract.***

***(2) Except as otherwise provided in subsections (3) and (4) of this section and in Sections 36 and 38 of this Act, a creditor of a lessor takes subject to the lease contract:***

***(a) Unless the creditor holds a lien that attached to the goods before the lease contract became enforceable; or***

***(b) Unless the creditor holds a security interest in the goods that under the Article on Secured Transactions (Article 9) would have priority over any other security interest in the goods perfected by a filing covering the goods and made at the time the lease contract became enforceable, whether or not any other security interest existed.***

***(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected and the lessee knows of its existence.***

***(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five (45) days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.***

SECTION 38. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) A creditor of a lessor in possession of goods subject to a lease contract may treat the lease contract as void if, as against the creditor, retention of possession by the lessor is fraudulent under any statute or rule of law, but retention of possession in good faith and current course of trade by the lessor for a commercially reasonable time after the lease contract becomes enforceable is not fraudulent.***

***(2) Nothing in this article impairs the rights of creditors of a lessor if the lease contract:***

***(a) Becomes enforceable, not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security, or the like; and***

***(b) Is made under circumstances which under any statute or rule of law apart from this article would constitute the transaction a fraudulent transfer or voidable preference.***

***(3) A creditor of a seller may treat a sale or an identification of goods to a contract for sale as void if, as against the creditor, retention of possession by the seller is fraudulent under any statute or rule of law, but retention of possession of the goods pursuant to a lease contract entered into by the seller as lessee and the buyer as lessor in connection with the sale or identification of the goods is not fraudulent if the buyer bought for value and in good faith.***

SECTION 39. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) In this section:***

***(a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;***

***(b) A "fixture filing" is the filing, in the office where a mortgage on the real estate would be recorded or registered, of a financing statement concerning goods that are or are to become fixtures and conforming to the requirements of KRS 355.9-402(5);***

***(c) A lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;***

***(d) A mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and***

***(e) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.***

***(2) Under this article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this article of ordinary building materials incorporated into an improvement on land.***

***(3) This article does not prevent creation of a lease of fixtures pursuant to real estate law.***

***(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:***

***(a) The lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten (10) days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or***

***(b) The interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.***

***(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:***

***(a) The fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or***

***(b) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or***

***(c) The encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or***

***(d) The lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.***

***(6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.***

***(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.***

***(8) If the interest of a lessor has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may:***

***(a) On default, expiration, termination, or cancellation of the lease agreement by the other party but subject to the provisions of the lease agreement and this article; or***

***(b) If necessary to enforce his other rights and remedies under this article;***

***remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but he must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.***

***(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the Article on Secured Transactions (Article 9).***

SECTION 40. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Goods are "accessions" when they are installed in or affixed to other goods.***

***(2) The interest of a lessor or a lessee under a lease contract entered into before the goods became accessions is superior to all interests in the whole except as stated in subsection (4).***

***(3) The interest of a lessor or a lessee under a lease contract entered into at the time or after the goods became accessions is superior to all subsequently acquired interests in the whole except as stated in subsection (4) but is subordinate to interests in the whole existing at the time the lease contract was made unless the holders of such interests in the whole have in writing consented to the lease or disclaimed an interest in the goods as part of the whole.***

***(4) The interest of a lessor or a lessee under a lease contract described in subsection (2) or (3) is subordinate to the interest of:***

***(a) A buyer in the ordinary course of business or a lessee in the ordinary course of business of any interest in the whole acquired after the goods became accessions; or***

***(b) A creditor with a security interest in the whole perfected before the lease contract was made to the extent that the creditor makes subsequent advances without knowledge of the lease contract.***

***(5) When under subsections (2) or (3) and (4) a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may:***

***(a) On default, expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this article; or***

***(b) If necessary to enforce his other rights and remedies under this article;***

***remove the goods from the whole, free and clear of all interests in the whole, but he must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.***

### ***PART 4. PERFORMANCE OF LEASE CONTRACT: REPUDIATED, SUBSTITUTED AND EXCUSED***

SECTION 41. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) A lease contract imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired.***

***(2) If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable the insecure party may suspend any performance for which he has not already received the agreed return.***

***(3) A repudiation of the lease contract occurs if assurance of due performance adequate under the circumstances of the particular case is not provided to the insecure party within a reasonable time, not to exceed thirty (30) days after receipt of a demand by the other party.***

***(4) Between merchants, the reasonableness of grounds for insecurity and the adequacy of any assurance offered must be determined according to commercial standards.***

***(5) Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.***

SECTION 42. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***If either party repudiates a lease contract with respect to a performance not yet due under the lease contract, the loss of which performance will substantially impair the value of the lease contract to the other, the aggrieved party may:***

***(1) For a commercially reasonable time, await retraction of repudiation and performance by the repudiating party;***

***(2) Make demand pursuant to Section 41 of this Act and await assurance of future performance adequate under the circumstances of the particular case; or***

***(3) Resort to any right or remedy upon default under the lease contract or this article, even though the aggrieved party has notified the repudiating party that the aggrieved party would await the repudiating party's performance and assurance and has urged retraction. In addition, whether or not the aggrieved party is pursuing one of the foregoing remedies, the aggrieved party may suspend performance or, if the aggrieved party is the lessor, proceed in accordance with the provisions of this article on the lessor's right to identify goods to the lease contract notwithstanding default or to salvage unfinished goods (Section 71 of this Act).***

SECTION 43. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Until the repudiating party's next performance is due, the repudiating party can retract the repudiation unless, since the repudiation, the aggrieved party has cancelled the lease contract or materially changed the aggrieved party's position or otherwise indicated that the aggrieved party considers the repudiation final.***

***(2) Retraction may be by any method that clearly indicates to the aggrieved party that the repudiating party intends to perform under the lease contract and includes any assurance demanded under Section 41 of this Act.***

***(3) Retraction reinstates a repudiating party's rights under a lease contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.***

SECTION 44. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) If without fault of the lessee, the lessor and the supplier, the agreed berthing, loading, or unloading facilities fail or the agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable, but a commercially reasonable substitute is available, the substitute performance must be tendered and accepted.***

***(2) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation:***

***(a) The lessor may withhold or stop delivery or cause the supplier to withhold or stop delivery unless the lessee provides a means or manner of payment that is commercially a substantial equivalent; and***

***(b) If delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the lessee's obligation unless the regulation is discriminatory, oppressive, or predatory.***

SECTION 45. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Subject to Section 44 of this Act on substituted performance, the following rules apply:***

***(1) Delay in delivery or nondelivery in whole or in part by a lessor or a supplier who complies with subsections (2) and (3) is not a default under the lease contract if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on***

***which the lease contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order, whether or not the regulation or order later proves to be invalid.***

***(2) If the causes mentioned in subsection (1) affect only part of the lessor's or the supplier's capacity to perform, he shall allocate production and deliveries among his customers but at his option may include regular customers not then under contract for sale or lease as well as his own requirements for further manufacture. He may so allocate in any manner that is fair and reasonable.***

***(3) The lessor seasonably shall notify the lessee and in the case of a finance lease the supplier seasonably shall notify the lessor and the lessee, if known, that there will be delay or nondelivery and, if allocation is required under subsection (2), of the estimated quota thus made available for the lessee.***

SECTION 46. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) If the lessee receives notification of a material or indefinite delay or an allocation justified under Section 45 of this Act, the lessee may by written notification to the lessor as to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 57 of this Act):***

***(a) Terminate the lease contract (subsection (2) of Section 52 of this Act); or***

***(b) Except in a finance lease that is not a consumer lease, modify the lease contract by accepting the available quota in substitution, with due allowance from the rent payable for the balance of the lease term for the deficiency but without further right against the lessor.***

***(2) If, after receipt of a notification from the lessor under Section 45 of this Act, the lessee fails so to modify the lease agreement within a reasonable time not exceeding thirty (30) days, the lease contract lapses with respect to any deliveries affected.***

SECTION 47. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) In the case of a finance lease that is not a consumer lease, the lessee's promises under the lease contract become irrevocable and independent upon the lessee's acceptance of the goods.***

***(2) A promise that has become irrevocable and independent under subsection (1):***

***(a) Is effective and enforceable between the parties, and by or against third parties including assignees of the parties; and***

***(b) Is not subject to cancellation, termination, modification, repudiation, excuse, or substitution without the consent of the party to whom the promise runs.***

## ***PART 5. DEFAULT***

### ***A. IN GENERAL***

SECTION 48. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this article.***

***(2) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this article and, except as limited by this article, as provided in the lease agreement.***

***(3) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this article.***

***(4) Except as otherwise provided in this article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.***

***(5) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this part as to the goods, or under other applicable law as to both the real property and the goods in accordance with his rights and remedies in respect of the real property, in which case this part does not apply.***

SECTION 49. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***Except as otherwise provided in this article or the lease agreement, the lessor or lessee in default under the lease contract is not entitled to notice of default or notice of enforcement from the other party to the lease agreement.***

SECTION 50. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in this article, the lease agreement may include rights and remedies for default in addition to or in substitution for those provided in this article and may limit or alter the measure of damages recoverable under this article.***

***(2) Resort to a remedy provided under this article or in the lease agreement is optional unless the remedy is expressly agreed to be exclusive. If circumstances cause an exclusive or limited remedy to fail of its essential purpose, or provision for an exclusive remedy is unconscionable, remedy may be had as provided in this article.***

***(3) Consequential damages may be liquidated under Section 51 of this Act, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. Limitation of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation of damages where the loss is commercial is not.***

***(4) Rights and remedies on default by the lessor or the lessee with respect to any obligation or promise collateral or ancillary to the lease contract are not impaired by this article.***

SECTION 51. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Damages payable by either party for default, or any other act or omission, including indemnity for loss or diminution of anticipated tax benefits or loss or damage to lessor's residual interest, may be liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the then anticipated harm caused by the default or other act or omission.***

***(2) If the lease agreement provides for liquidation of damages, and such provision does not comply with subsection (1), or such provision is an exclusive or limited remedy that circumstances cause to fail of its essential purpose, remedy may be had as provided in this article.***

***(3) If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (Section 72 or 73 of this Act), the lessee is entitled to restitution of any amount by which the sum of his payments exceeds:***

***(a) The amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages in accordance with subsection (1); or***

***(b) In the absence of those terms, twenty percent (20%) of the then present value of the total rent the lessee was obligated to pay for the balance of the lease term, or, in the case of a consumer lease, the lesser of such amount or five hundred dollars ($500).***

***(4) A lessee's right to restitution under subsection (3) is subject to offset to the extent the lessor establishes:***

***(a) A right to recover damages under the provisions of this article other than subsection (1); and***

***(b) The amount or value of any benefits received by the lessee directly or indirectly by reason of the lease contract.***

SECTION 52. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) On cancellation of the lease contract, all obligations that are still executory on both sides are discharged, but any right based on prior default or performance survives, and the cancelling party also retains any remedy for default of the whole lease contract or any unperformed balance.***

***(2) On termination of the lease contract, all obligations that are still executory on both sides are discharged but any right based on prior default or performance survives.***

***(3) Unless the contrary intention clearly appears, expressions of "cancellation," "rescission," or the***

*like of the lease contract may not be construed as a renunciation or discharge of any claim in damages for an antecedent default.*

*(4) Rights and remedies for material misrepresentation or fraud include all rights and remedies available under this article for default.*

*(5) Neither rescission nor a claim for rescission of the lease contract nor rejection or return of the goods may bar or be deemed inconsistent with a claim for damages or other right or remedy.*

SECTION 53. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) An action for default under a lease contract, including breach of warranty or indemnity, must be commenced within four (4) years after the cause of action accrued. By the original lease contract the parties may reduce the period of limitation to not less than one (1) year.*

*(2) A cause of action for default accrues when the act or omission on which the default or breach of warranty is based is or should have been discovered by the aggrieved party, or when the default occurs, whichever is later. A cause of action for indemnity accrues when the act or omission on which the claim for indemnity is based is or should have been discovered by the indemnified party, whichever is later.*

*(3) If an action commenced within the time limited by subsection (1) is so terminated as to leave available a remedy by another action for the same default or breach of warranty or indemnity, the other action may be commenced after the expiration of the time limited and within six (6) months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.*

*(4) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action that have accrued before this article becomes effective.*

SECTION 54. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Damages based on market rent (Section 66 or 75 of this Act) are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the time of the default.*

*(2) If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this article is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.*

*(3) Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this article offered by one party is not admissible unless and until he has given the other party notice the court finds sufficient to prevent unfair surprise.*

*(4) If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight but not its admissibility.*

### *B. DEFAULT BY LESSOR*

SECTION 55. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) If a lessor fails to deliver the goods in conformity to the lease contract (Section 56 of this Act) or repudiates the lease contract (Section 42 of this Act), or a lessee rightfully rejects the goods (Section 56 of this Act) or justifiably revokes acceptance of the goods (Section 64 of this Act), then with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 57 of this Act), the lessor is in default under the lease contract and the lessee may:*

*(a) Cancel the lease contract (subsection (1) of Section 52 of this Act);*

*(b) Recover so much of the rent and security as has been paid, but in the case of an installment lease contract the recovery is that which is just under the circumstances;*

*(c) Cover and recover damages as to all goods affected whether or not they have been identified to the lease contract (Sections 65 and 67 of this Act), or recover damages for nondelivery (Sections 66 and 67 of this Act).*

*(2) If a lessor fails to deliver the goods in conformity to the lease contract or repudiates the lease contract, the lessee may also:*

*(a) If the goods have been identified, recover them (Section 69 of this Act); or*

*(b) In a proper case, obtain specific performance or replevy the goods (Section 68 of this Act).*

*(3) If a lessor is otherwise in default under a lease contract, the lessee may exercise the rights and remedies provided in the lease contract and this article.*

*(4) If a lessor has breached a warranty, whether express or implied, the lessee may recover damages (subsection (4) of Section 66 of this Act).*

*(5) On rightful rejection or justifiable revocation of acceptance, a lessee has a security interest in goods in the lessee's possession or control for any rent and security that has been paid and any expenses reasonably incurred in their inspection, receipt, transportation, and care and custody and may hold those goods and dispose of them in good faith and in a commercially reasonable manner, subject to the provisions of (subsection (5) of Section 44 of this Act).*

*(6) Subject to the provisions of Section 47 of this Act, a lessee, on notifying the lessor of the lessee's intention to do so, may deduct all or any part of the damages resulting from any default under the lease contract from any part of the rent still due under the same lease contract.*

SECTION 56. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Subject to the provisions of Section 57 of this Act on default in installment lease contracts, if the goods or the tender or delivery fail in any respect to conform to the lease contract, the lessee may reject or accept the goods or accept any commercial unit or units and reject the rest of the goods.*

*(2) Rejection of goods is ineffective unless it is within a reasonable time after tender or delivery of the goods and the lessee seasonably notifies the lessor.*

SECTION 57. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Under an installment lease contract a lessee may reject any delivery that is nonconforming if the nonconformity substantially impairs the value of that delivery and cannot be cured or the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subsection (2) and the lessor or the supplier gives adequate assurance of its cure, the lessee must accept that delivery.*

*(2) Whenever nonconformity or default with respect to one (1) or more deliveries substantially impairs the value of the installment lease contract as a whole there is a default with respect to the whole. But, the aggrieved party reinstates the installment lease contract as a whole if the aggrieved party accepts a nonconforming delivery without seasonably notifying of cancellation or brings an action with respect only to past deliveries or demands performance as to future deliveries.*

SECTION 58. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Subject to any security interest of a lessee (subsection (5) of Section 55 of this Act), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in his possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.*

*(2) If a merchant lessee (subsection (1)) or any other lessee (Section 59 of this Act) disposes of goods, he is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade, or if there is none, to a reasonable sum not exceeding ten percent (10%) of the gross proceeds.*

***(3) In complying with this section or Section 59 of this Act, the lessee is held only to good faith. Good faith conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.***

***(4) A purchaser who purchases in good faith from a lessee pursuant to this section or Section 59 of this Act takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with one (1) or more of the requirements of this article.***

SECTION 59. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided with respect to goods that threaten to decline in value speedily (Section 58 of this Act) and subject to any security interest of a lessee (subsection (5) of Section 55 of this Act):***

***(a) The lessee, after rejection of goods in the lessee's possession, shall hold them with reasonable care at the lessor's or the supplier's disposition for a reasonable time after the lessee's seasonable notification of rejection;***

***(b) If the lessor or the supplier gives no instructions within a reasonable time after notification of rejection, the lessee may store the rejected goods for the lessor's or the supplier's account or ship them to the lessor or the supplier or dispose of them for the lessor's or the supplier's account with reimbursement in the manner provided in Section 58 of this Act; but***

***(c) The lessee has no further obligations with regard to goods rightfully rejected.***

***(2) Action by the lessee pursuant to subsection (1) is not acceptance or conversion.***

SECTION 60. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) If any tender or delivery by the lessor or the supplier is rejected because nonconforming and the time for performance has not yet expired, the lessor or the supplier may seasonably notify the lessee of the lessor's or the supplier's intention to cure and may then make a conforming delivery within the time provided in the lease contract.***

***(2) If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if he seasonably notifies the lessee.***

SECTION 61. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:***

***(a) If, stated seasonably, the lessor or the supplier could have cured it (Section 60 of this Act); or***

***(b) Between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.***

***(2) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovering of the payment for defects apparent on the face of the documents.***

SECTION 62. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Acceptance of goods occurs after the lessee has had a reasonable opportunity to inspect the goods; and***

***(a) The lessee signifies or acts with respect to the goods in a manner that signifies to the lessor or the supplier that the goods are conforming or that the lessee will take or retain them in spite of their nonconformity; or***

***(b) The lessee fails to make an effective rejection of the goods (subsection (2) of Section 56 of this Act).***

***(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.***

SECTION 63. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) – A lessee must pay rent for any goods accepted in accordance with the lease contract, with due allowance for goods rightfully rejected or not delivered.*

*(2) A lessee's acceptance of goods precludes rejection of the goods accepted. In the case of a finance lease, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it. In any other case, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured. Acceptance does not of itself impair any other remedy provided by this article or the lease agreement for nonconformity.*

*(3) If a tender has been accepted:*

*(a) Within a reasonable time after the lessee discovers or should have discovered any default, the lessee shall notify the lessor and the supplier, or be barred from any remedy;*

*(b) Except in the case of a consumer lease, within a reasonable time after the lessee received notice of litigation for infringement or the like (Section 20 of this Act) the lessee shall notify the lessor or be barred from any remedy over for liability established by the litigation; and*

*(c) The burden is on the lessee to establish any default.*

*(4) If a lessee is sued for breach of a warranty or other obligation for which a lessor or a supplier is answerable over:*

*(a) The lessee may give the lessor or the supplier written notice of the litigation. If the notice states that the lessor or the supplier may come in and defend and that if the lessor or the supplier does not do so he will be bound in any action against him by the lessee by any determination of fact common to the two litigations, then unless the lessor or the supplier after seasonable receipt of the notice does come in and defend he is so bound.*

*(b) The lessor or the supplier may demand in writing that the lessee turn over control of the litigation including settlement if the claim is one for infringement or the like (Section 20 of this Act) or else be barred from any remedy over. If the demand states that the lessor or the supplier agrees to bear all expense and to satisfy any adverse judgment, then unless the lessee after seasonable receipt of the demand does turn over control the lessee is so barred.*

*(5) The provisions of subsections (3) and (4) apply to any obligation of a lessee to hold the lessor or the supplier harmless against infringement or the like (Section 20 of this Act).*

SECTION 64. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) A lessee may revoke acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to the lessee if he has accepted it:*

*(a) Except in the case of a finance lease, on the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured; or*

*(b) Without discovery of the nonconformity if the lessee's acceptance was reasonably induced either by the lessor's assurances or, except in the case of a finance lease, by the difficulty of discovery before acceptance.*

*(2) Revocation of acceptance must occur within a reasonable time after the lessee discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by the nonconformity. Revocation is not effective until the lessee notifies the lessor.*

*(3) A lessee who so revokes has the same rights and duties with regard to the goods involved as if the lessee had rejected them.*

SECTION 65. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) After default by a lessor under the lease contract (subsection (1) of Section 55 of this Act), the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.*

*(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 51 of this Act) or determined by agreement of the parties (KRS 355.1-102(3)), if a lessee's cover is by lease agreement substantially similar to the original lease agreement and the lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages:*

***(a) The present value, as of the date of default, of the difference between the total rent for the lease term of the new lease agreement and the total rent for the remaining lease term of the original lease agreement; and***

***(b) Any incidental or consequential damages less expenses saved in consequence of the lesser's default.***

***(3) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and Section 66 of this Act governs.***

SECTION 66. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 51 of this Act) or determined by agreement of the parties (KRS 355.1-102(3)), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) of Section 65 of this Act, or is by purchase or otherwise, the measure of damages for non-delivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value as of the date of the default of the difference between the then market rent and the original rent, computed for the remaining lease term of the original lease agreement together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.***

***(2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.***

***(3) If the lessee has accepted goods and given notification (subsection (3) of Section 63 of this Act), the measure of damages for non-conforming tender or delivery by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.***

***(4) The measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.***

SECTION 67. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Incidental damages resulting from a lessor's default include expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected or goods the acceptance of which is justifiably revoked, any commercially reasonable charges, expenses or commissions in connection with effecting cover, and any other reasonable expense incident to the default.***

***(2) Consequential damages resulting from a lessor's default include:***

***(a) Any loss resulting from general or particular requirements and needs of which the lessor at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and***

***(b) Injury to person or property proximately resulting from any breach of warranty.***

SECTION 68. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Specific performance may be decreed if the goods are unique or in other proper circumstances.***

***(2) A decree for specific performance may include any terms and conditions as to payment of the rent, damages, or other relief that the court deems just.***

***(3) A lessee has a right of replevin, detinue, sequestration, claim and delivery, writ of possession or the like for goods identified to the lease contract if after reasonable effort the lessee is unable to effect cover for those goods or the circumstances reasonably indicate that the effort will be unavailing.***

SECTION 69. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

***(1) Subject to subsection (2) and even though the goods have not been shipped, a lessee who has paid a part or all of the rent and security for goods identified to a lease contract (Section 26 of this Act)***

*on making and keeping good a tender of any unpaid portion of the rent and security due under the lease contract may recover the goods identified from the lessor if the lessor becomes insolvent within ten (10) days after receipt of the first installment of rent and security.*

*(2) A lessee acquires the right to recover goods identified to a lease contract only if they conform to the lease contract.*

### *C. DEFAULT BY LESSEE*

SECTION 70. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) If a lessee wrongfully rejects or revokes acceptance of goods or fails to make a payment when due or repudiates with respect to a part or the whole, then, with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 57 of this Act), the lessee is in default under the lease contract and the lessor may:*

*(a) Cancel the lease contract (subsection (1) of Section 52 of this Act);*

*(b) Proceed respecting goods not identified to the lease contract (Section 71 of this Act);*

*(c) Withhold delivery of the goods and take possession of goods previously delivered (Section 72 of this Act);*

*(d) Stop delivery of the goods by any bailee (Section 73 of this Act);*

*(e) Dispose of the goods and recover damages (Section 74 of this Act), or retain the goods and recover damages (Section 75 of this Act), or in a proper case recover rent (Section 76 of this Act).*

*(2) If a lessee is otherwise in default under a lease contract, the lessor may exercise the rights and remedies provided in the lease contract and this article.*

SECTION 71. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) A lessor aggrieved under subsection (1) of Section 70 of this Act may:*

*(a) Identify to the lease contract conforming goods not already identified if at the time the lessor learned of the default they were in the lessor's or the supplier's possession or control; and*

*(b) Dispose of goods (subsection (1) of Section 74 of this Act) that demonstrably have been intended for the particular lease contract even though those goods are unfinished.*

*(2) If the goods are unfinished, in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization, an aggrieved lessor or the supplier may either complete manufacture and wholly identify the goods to the lease contract or cease manufacture and lease, sell, or otherwise dispose of the goods for scrap or salvage value or proceed in any other reasonable manner.*

SECTION 72. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) If a lessor discovers the lessee to be insolvent, the lessor may refuse to deliver the goods.*

*(2) The lessor has on default by the lessee under the lease contract the right to take possession of the goods. If the lease contract so provides, the lessor may require the lessee to assemble the goods and make them available to the lessor at a place to be designated by the lessor which is reasonably convenient to both parties. Without removal, the lessor may render unusable any goods employed in trade or business, and may dispose of goods on the lessee's premises (Section 74 of this Act).*

*(3) The lessor may proceed under subsection (2) without judicial process if that can be done without breach of the peace or the lessor may proceed by action.*

SECTION 73. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent,*

*security or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.*

*(2) In pursuing its remedies under subsection (1), the lessor may stop delivery until:*

*(a) Receipt of the goods by the lessee;*

*(b) Acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or*

*(c) Such an acknowledgment to the lessee by a carrier via reshipment or as warehouseman.*

*(3) (a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.*

*(b) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.*

*(c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.*

SECTION 74. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) After a default by a lessee under the lease contract (subsection (1) of Section 70 of this Act) or after the lessor refuses to deliver or takes possession of goods (Section 72 or 73 of this Act), the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale or otherwise.*

*(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 51 of this Act) or determined by agreement of the parties (KRS 355.1-102(3)), if the disposition is by lease agreement substantially similar to the original lease agreement and the lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages:*

*(a) Accrued and unpaid rent as of the date of default;*

*(b) The present value as of the date of default of the difference between the total rent for the remaining lease term of the original lease agreement and the total rent for the lease term of the new lease agreement; and*

*(c) Any incidental damages allowed under Section 77 of this Act, less expenses saved in consequence of the lessee's default.*

*(3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and Section 75 of this Act governs.*

*(4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this article.*

*(5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (subsection (5) of Section 55 of this Act).*

SECTION 75. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 51 of this Act) or determined by agreement of the parties (KRS 355.1-102(3)), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2) of Section 74 of this Act, or is by sale or otherwise, the lessor may recover from the lessee as damages for non-acceptance or repudiation by the lessee:*

*(a) Accrued and unpaid rent as of the date of default;*

*(b) The present value as of the date of default of the difference between the total rent for the remaining lease term of the original lease agreement and the market rent at the time and place for tender computed for the same lease term; and*

*(c) Any incidental damages allowed under Section 77 of this Act, less expenses saved in consequence of the lessee's default.*

*(2) If the measure of damages provided in subsection (1) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under Section 77 of this Act, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.*

SECTION 76. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) After default by the lessee under the lease contract (subsection (1) of Section 70 of this Act), if the lessor complies with subsection (2), the lessor may recover from the lessee as damages:*

*(a) For goods accepted by the lessee and for conforming goods lost or damaged within a commercially reasonable time after risk of loss passes to the lessee (Section 28 of this Act):*

*1. Accrued and unpaid rent as of the date of default;*

*2. The present value as of the date of default of the rent for the remaining lease term of the lease agreement; and*

*3. Any incidental damages allowed under Section 77 of this Act, less expenses saved in consequence of the lessee's default; and*

*(b) For goods identified to the lease contract if the lessor is unable after reasonable effort to dispose of them at a reasonable price or the circumstances reasonably indicate that effort will be unavailing:*

*1. Accrued and unpaid rent as of the date of default;*

*2. The present value as of the date of default of the rent for the remaining lease term of the lease agreement; and*

*3. Any incidental damages allowed under Section 77 of this Act, less expenses saved in consequence of the lessee's default.*

*(2) Except as provided in subsection (3), the lessor shall hold for the lessee for the remaining lease term of the lease agreement any goods that have been identified to the lease contract and are in the lessor's control.*

*(3) The lessor may dispose of the goods at any time before collection of the judgment for damages obtained pursuant to subsection (1). If the disposition is before the end of the remaining lease term of the lease agreement, the lessor's recovery against the lessee for damages will be governed by Section 74 or Section 75 of this Act.*

*(4) Payment of the judgment for damages obtained pursuant to subsection (1) entitles the lessee to use and possession of the goods not then disposed of for the remaining lease term of the lease agreement.*

*(5) After a lessee has wrongfully rejected or revoked acceptance of goods, has failed to pay rent then due, or has repudiated (Section 42 of the Act), a lessor who is held not entitled to rent under this section must nevertheless be awarded damages for non-acceptance under Sections 74 and 75 of this Act.*

SECTION 77. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*Incidental damages to an aggrieved lessor include any commercially reasonable charges, expenses, or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the lessee's default, in connection with return or disposition of the goods, or otherwise resulting from the default.*

SECTION 78. A NEW SECTION OF ARTICLE 2A OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

*(1) If a third party so deals with goods that have been identified to a lease contract as to cause actionable injury to a party to the lease contract (a) the lessor has a right of action against the third party, and (b) the lessee also has a right of action against the third party if the lessee:*

*1. Has a security interest in the goods;*

***2. Has an insurable interest in the goods; or***

***3. Bears the risk of loss under the lease contract or has since the injury assumed that risk as against the lessor and the goods have been converted or destroyed.***

***(2) If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, his suit or settlement, subject to his own interest, is as a fiduciary for the other party to the lease contract.***

***(3) Either party with the consent of the other may sue for the benefit of whom it may concern.***

Section 79. KRS 355.1-105 is amended to read as follows:

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of the laws rules) so specified:

Rights of creditors against sold goods. KRS 355.2-402.

***Applicability of the Article on Leases. Sections 5 and 6 of this Act.***

Applicability of the Article on Bank Deposits and Collections. KRS 355.4-102.

Bulk transfers subject to the Article on Bulk Transfers. KRS 355.6-102.

Applicability of the Article on Investment Securities. KRS 355.8-106.

Perfection provisions of the Article on Secured Transactions. KRS 355.9-103.

Section 80. KRS 355.1-201 is amended to read as follows:

Subject to additional definitions contained in the subsequent Articles of this chapter which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter (KRS 355.1-205 and 355.2-208). Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (KRS 355.1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or

by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this chapter and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or a certificated investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when

(a) He has actual knowledge of it; or

(b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) It comes to his attention; or

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this chapter.

(30) "Person" includes an individual or an organization (See KRS 355.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (KRS 355.2-401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of ***those*** [~~such~~] goods to a contract for sale under KRS 355.2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Article 9. Unless a [~~lease or~~] consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment [~~is~~] in any event ***is*** subject to the provisions on consignment sales (KRS 355.2-326). [~~Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.~~]

***Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee; and***

***(a) The original term of the lease is equal to or greater than the remaining economic life of the goods;***

***(b) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;***

***(c) The lessee has an option to renew the lease for the remaining economic life of the goods for no***

***additional consideration or nominal additional consideration upon compliance with the lease agreement; or***

***(d) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.***

***A transaction does not create a security interest merely because it provides that:***

***(a) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;***

***(b) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;***

***(c) The lessee has an option to renew the lease or to become the owner of the goods;***

***(d) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or***

***(e) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.***

***For purposes of this subsection (37):***

***(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;***

***(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and***

***(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.***

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value", except as otherwise provided with respect to negotiable instruments and bank collections (KRS 355.3-303, 355.4-208 and 355.4-209) a person gives "value" for rights if he acquires them

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) As security for or in total or partial satisfaction of a pre-existing claim; or

(c) By accepting delivery pursuant to a pre-existing contract for purchase; or

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Section 81. KRS 355.9-113 is amended to read as follows:

A security interest arising solely under the Article on Sales (Article 2) is subject to the provisions of this article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods:

(1) No security agreement is necessary to make the security interest enforceable; and

(2) No filing is required to perfect the security interest; and

(3) The rights of the secured party on default by the debtor are governed ***(i)*** by the Article on Sales (Article 2) ***in the case of a security interest arising solely under such Article or (ii) by the Article on Leases (Article 2A) in the case of a security interest arising solely under such Article.***

SECTION 82. A NEW SECTION OF KRS ARTICLE 2A OF KRS CHAPTER IS CREATED TO READ AS FOLLOWS:

***The comments of the National Conference of Commissioners on Uniform State Laws and the American Law Institute may be consulted in the construction and application of Article 2A but if the text and comment conflict, the text shall control.***

Section 83. The effective date of this Act shall be January 1, 1991.

**SB 125,** AN ACT relating to the Commission on Civil Rights.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 344.190 is amended to read as follows:

In the enforcement of this chapter, the Commission on Human Rights shall have the following powers and duties:

(1) To maintain an office in the city of Frankfort and [~~such~~] other offices within the state as may be deemed necessary.

(2) To meet and exercise its powers at any place within the Commonwealth.

(3) Within the limitations provided by law, to appoint an executive director, attorneys, hearing examiners, clerks and other employees and agents as it may deem necessary. At the direction of the commission, attorneys appointed under this section may appear for and represent the commission in any court. ***The commission may, by written order, delegate the authority given by this subsection to its executive director, except as that authority relates to the appointment of its executive director.***

(4) To promote the creation of local commissions on human rights, to cooperate with state, local and other agencies, both public and private, and individuals, and to obtain upon request and utilize the services of all governmental departments and agencies.

(5) To cooperate with the United States Equal Employment Opportunity Commission, created by section 705 of the Civil Rights Act of 1964 (78 Stat. 241), in order to achieve the purposes of that act, and with other federal and local agencies in order to achieve the purposes of that act, and with other federal and local agencies in order to achieve the purposes of this chapter.

(6) To accept gifts or bequests, grants, or other payments, public or private, to help finance its activities.

(7) To accept reimbursement pursuant to section 709 (b) of the Civil Rights Act of 1964 (78 Stat. 241) for services rendered to assist the federal Equal Employment Opportunity Commission.

(8) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations of this chapter.

(9). At any time after a complaint is filed, to require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person or by deposition, and require the production of documents relevant to the complaint. The commission may make rules authorizing any member or individual designated to exercise these powers in the performance of official duties.

(10) To furnish technical assistance requested by persons subject to this chapter to further their compliance with this chapter or an order issued thereunder.

(11) To make studies appropriate to effectuate the purposes and policies of this chapter and to make the results thereof available to the public.

(12) To render annual written reports to the Governor and the legislature. The reports may contain recommendations of the commission for legislative or other action to effectuate the purposes and policies of this chapter.

(13) To create local or statewide advisory agencies that in its judgment will aid in effectuating the purpose of this chapter. The commission may empower these agencies (a) to study and report on problems of discrimination because of race, color, religion, or national origin, (b) to foster through community effort or otherwise goodwill among the groups and elements of the population of the state, and (c) to make recommendations to the commission for the development of policies and practices that will aid in carrying out the purposes of this chapter. Members of such committees shall serve without pay but shall be reimbursed for expenses incurred in such service. The commission may make provision for technical and clerical assistance to the committees.

(14) To adopt, promulgate, amend and rescind [~~rules and~~] regulations to effectuate the purposes and provisions of this chapter, including regulations requiring the posting of notices prepared or approved by the commission.

SB 172, AN ACT relating to execution of the mentally retarded.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

***(1) An adult, or a minor under eighteen (18) years of age who was tried as an adult, convicted of a crime and subject to sentencing, is referred to in this Act as an offender.***

***(2) An offender with significant subaverage intellectual functioning existing concurrently with substantial deficits in adaptive behavior and manifested during the developmental period is referred to in this Act as a seriously mentally retarded offender. "Significantly subaverage general intellectual functioning" is defined as an intelligence quotient (I.Q.) of seventy (70) or below.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

***(1) Unless the issue has been determined at trial, following a recommendation of the death sentence during the penalty phase of jury or judicial deliberations in a capital case, the offender may allege that he is a seriously mentally retarded offender and present evidence with regard thereto. The Commonwealth may offer evidence in rebuttal.***

***(2) The court shall determine whether or not the offender is a seriously mentally retarded offender in accordance with the definition in Section 1 of this Act.***

***(3) The decision of the court shall be placed in the record.***

***(4) If the issue of whether or not the offender is seriously mentally retarded was determined at trial, that determination shall govern and the hearing and determination provided for in this section shall not be made. If it is determined the offender is a seriously mentally retarded offender, he shall be sentenced as provided in Section 3 of this Act.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

***(1) KRS 532.010, 532.025, and 532.030 to the contrary notwithstanding, no offender who has been determined to be a seriously mentally retarded offender under the provisions of Section 2 of this Act, shall be executed. In lieu of execution, an offender determined to be a seriously mentally retarded offender shall be confined in the penitentiary for life, without privilege or parole.***

***(2) The provisions of this Act relate only to the substitution of life imprisonment without privilege of parole for seriously mentally retarded offenders who otherwise would have been executed. The same procedure as required in KRS 532.025 and 532.030 shall be utilized in determining whether or not the offender would otherwise have been sentenced to death, except for the provisions of this Act.***

***(3) The provisions of this Act do not preclude the sentencing of a seriously mentally retarded offender to any other sentence authorized by KRS 532.010, 532.025, or 532.030 for a crime which is a capital offense.***

***(4) The provisions of this Act shall apply only to trials commenced after the effective date of this Act.***

SB 173, AN ACT relating to guardianship.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 387.010 is amended to read as follows:

As used in ***KRS 387.010 to 387.280*** [~~this chapter~~], unless the context requires otherwise:

(1) [~~"Infant" or~~] "Minor" means any person who has not reached the age of eighteen (18).

(2) "Interested person ***or entity" means an adult relative or friend of the minor, an official or representative of a public or private agency, corporation, or association concerned with the minor's welfare, or any other person found suitable by the District Court*** [~~" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a minor. It also includes persons having priority for appointment as fiduciaries~~].

***(3) "Guardian" means any individual, agency, or corporation appointed by the District Court to have care, custody, and control of a minor and to manage the minor's financial resources.***

***(4) "Limited guardian" means an individual, agency, or corporation appointed by the District Court to have care, custody and control of a minor without the power to manage the minor's financial resources.***

***(5) "Conservator" means an individual, agency, or corporation appointed by the District Court to manage the financial resources of a minor.***

***(6) "Ward" means a person for whom a guardian, limited guardian, or conservator has been appointed.***

***(7) "Parent" means a mother or father whose parental rights have not been terminated or suspended by prior court order.***

Section 2. KRS 387.020 is amended to read as follows:

***(1)*** District Courts shall have ***exclusive*** jurisdiction for the appointment and removal of guardians***, limited guardians, and conservators for*** [~~to~~] minors, and ***for*** the ***management and*** settlement of their accounts. [~~The district court of the county in which the minor resides at the time of appointment shall have the jurisdiction; but if the appointment is made by the will of the father or mother of the minor, then the jurisdiction shall be in the district court of the county in which the will was probated; and if the minor be a nonresident of the State of Kentucky and has real estate or an interest in real estate in the State of Kentucky, the jurisdiction shall be in the district court of that county in which some portion of such real estate may lie; if the minor be a nonresident of the State of Kentucky and has no real estate or interest in real estate in the State of Kentucky, but has personal property in the State of Kentucky, then the jurisdiction shall be in the district court of that county in which such personal property is located; if the minor be a nonresident of the State of Kentucky and has real estate or personal property or an interest in real estate or personal property in more than one county in the State of Kentucky, then the jurisdiction shall be in the district court of either or any of such counties in which the real estate or personal property is located which first takes jurisdiction in proceedings for the appointment of a guardian, and in the appointing of a guardian for a minor who is a nonresident as herein provided for the guardianship shall be only for that property or interest in property within the State of Kentucky. In the event of a minor who resides in the State of Kentucky but has no property within the State of Kentucky, either real or personal, but it is necessary that a guardian be appointed to give consent to marriage, or enlistment in the Army or Navy, or in any other case where the law requires the consent of a guardian, then and in that event the district court of the county in which the minor has resided not less than one year shall have the jurisdiction and authority to appoint a guardian for the purpose of giving such consent.~~]

***(2) If the minor is a resident of the Commonwealth of Kentucky, venue for all proceedings under KRS 387.010 to 387.280 shall be:***

***(a) In the county where the will of the minor's last surviving parent was probated, if that will nominates a guardian, limited guardian, or conservator pursuant to KRS 387.040;***

***(b) In all other cases, in the county where the minor resides.***

***(3) If the minor is not a resident of the Commonwealth of Kentucky, the venue for all proceedings under KRS 387.010 to 387.280 shall be in the county where the real or personal property of the minor is located, or if the minor has real or personal property in more than one (1) county, then venue shall be in any one (1) of the counties where property of the minor is located and where proceedings are first brought for the appointment of a guardian, limited guardian, or conservator.***

Section 3. KRS 387.025 is amended to read as follows:

***(1)*** Any interested person ***or entity*** may petition the court for the appointment of a guardian ***or limited guardian for an unmarried minor*** [~~but before an appointment is made, the petitioner shall make and file in duplicate a written application under oath, which must state the name, age and residence of the ward, the ward's husband or wife and each of the ward's parents, or if there be no spouse or parents, the names, ages and residence of the next of kin, the name of the person having custody of the ward, a brief description of the ward's estate and its probable value, and the estimated annual income therefrom~~].

***(2) Any interested person or entity may petition the court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.***

***(3) The petition for appointment shall set forth the following:***

***(a) The name and address of the minor;***

***(b) The date of birth of the minor;***

***(c) The name and address of the minor's spouse, if any;***

***(d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;***

***(e) The name and address of the individual or facility having custody of the minor;***

***(f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;***

***(g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;***

***(h) The name and address of the petitioner;***

***(i) The name and address of the petitioner's attorney, if any; and***

***(j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.***

***(4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:***

***(a) Name, address, and age of the applicant;***

***(b) The applicant's relationship to the minor;***

***(c) Whether or not the applicant has ever been convicted of a crime; and***

***(d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.***

***(5)*** A duplicate copy of ***the petition and*** [~~said~~] application shall be mailed by the clerk to the ***secretary*** [~~commissioner~~] of ***the*** Revenue ***Cabinet*** [~~of the state of Kentucky~~]. The ***District*** Court shall [~~thereupon~~] appoint a time for hearing ***the petition and*** [~~such~~] application. ***Notice of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016*** [~~Notice thereof shall be given to the minor if more than fourteen years of age; to the person having custody of the ward; to the husband or wife and each parent of the ward, or if none, to the next of kin residing in the state in the manner provided in KRS 395.016~~].

SECTION 4. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***In appointing a guardian, limited guardian or conservator, the District Court shall appoint any person or entity whose appointment would be in the best interest of the minor, taking into consideration the ability of the person or entity to manage and preserve the minor's estate, and taking into consideration the person or entity nominated pursuant to KRS 387.040 or 387.050.***

Section 5. KRS 387.040 is amended to read as follows:

***The last surviving parent of a minor*** [~~If one of the parents is dead, the survivor~~] may by will ***nominate*** [~~appoint~~] a guardian***, limited guardian, or conservator, or all of them, for the minor. One (1) person or entity may be nominated to manage the minor's financial resources and another to have care, custody, and control of the minor*** [~~to his infant child during its minority, or for any less period. He may appoint the guardianship of the minor's estate to one, and the custody, nurture and education of the minor to another~~].

Section 6. KRS 387.050 is amended to read as follows:

If the minor is fourteen (14) years of age or older, ***the minor*** [~~he~~] may, in the presence of the ***District*** Court, or by a writing signed in the presence of the judge, after privy examination, nominate his own guardian, ***limited guardian, or conservator,*** or if ***the*** [~~such~~] minor be absent from the county, ***the minor*** [~~he~~] may after privy examination, in the presence of the district judge of the county where ***the minor*** [~~he~~] is, or if ***the minor*** [~~he~~] be in the military or naval services of the United States, after privy examination, in the presence of a superior commanding officer, by a writing signed in the presence of ***the*** [~~such~~] judge or superior officer nominate his own guardian***, limited guardian, or conservator,*** provided that ***the*** [~~such~~] judge or ***the*** [~~such~~] commanding officer certify to the district judge of the county having jurisdiction to appoint a guardian***, limited guardian, or conservator*** for ***the minor*** [~~such ward~~] that ***the*** [~~said~~] writing was signed by ***the*** [~~such~~] minor [~~and~~] after privy examination in the presence of ***the*** [~~such~~] judge or officer[~~; but If the person so nominated is not approved by the court, or if the minor, after summons, fails to nominate a suitable person, or if the minor resides out of the state, or if the testamentary guardian fails for three months to qualify, the court may appoint a guardian of its own selection~~].

SECTION 7. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***(1) A guardian of a ward shall have the powers and responsibilities of a parent regarding the ward's support, care, and education, but a guardian shall not be personally liable for the ward's expenses and shall not be liable to third persons by reason of the relationship for acts of the ward.***

***(2) In particular and without qualifying the foregoing, a guardian shall:***

***(a) Take custody of the person of the ward and establish the ward's place of abode within the Commonwealth; and***

***(b) Take reasonable care of the ward's personal effects.***

***(3) A guardian may:***

***(a) Receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract, devise, trust, or custodianship;***

***(b) Consent to medical or other professional care, treatment, or advice for the ward, without liability by reason of the consent, for injury to the ward resulting from the negligence or acts of third persons unless a parent would have been liable in the circumstances;***

***(c) Consent to the ward's marriage, adoption, or enlistment in military service;***

***(d) Extend funds of the ward's estate for the support of persons legally dependent on the ward.***

***(4) A guardian shall expend or distribute income or principal of the ward's estate without District Court authorization or confirmation for the support, care, and education of the ward. The District Court may limit or restrict the guardian's exercise of this power.***

***(5) In performing the guardian's duties relating to support, care, and education of the ward, a guardian shall consider:***

***(a) Recommendations relating to the appropriate standard of support, care, and education for the ward made by a parent or limited guardian, if any:***

***(b) The size of the estate under the guardian's supervision or control;***

***(c) The ward's age, capacities, limitations, needs, opportunities, and physical and mental health;***

*(d) The likelihood that the ward will be able to labor and earn money when the ward becomes an adult;*

*(e) The accustomed standard of living of the ward; and*

*(f) Other funds or sources used for the support of the ward which have not been placed under the control or supervision of the guardian.*

*(6) A guardian shall not provide for the support, care, or education of a ward which a parent of the ward is legally obligated and financially able to provide.*

*(7) Funds expended under this section may be paid by a guardian to any person, including the ward, to reimburse for expenditures that the guardian might have made, or in advance for services to be rendered to the ward if it is reasonable to expect the services will be performed and advance payments are customary or reasonably necessary under the circumstances.*

*(8) When a ward attains age eighteen (18), the guardian, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the ward as soon as possible.*

SECTION 8. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

*(1) A guardian shall apply the income or principal of the ward's estate to the payment of debts, taxes, claims, charges, and expenses of the guardianship and, in accordance with Section 7 of this Act, for the support, care, and education of the ward or the ward's dependents.*

*(2) A guardian shall take possession of all of the ward's real and personal property.*

*(3) A guardian may sell any of the ward's personal property without District Court authorization or confirmation. To sell any of the ward's real property, a guardian shall comply with the provisions of KRS Chapter 389A.*

*(4) A guardian shall invest any of the ward's money or property which is not required for the ward's current support, care and education. The investments made of a ward's funds shall be investments authorized by KRS 386.020.*

*(5) A guardian may expend the ward's funds to repair and maintain the ward's personal and real property.*

*(6) A guardian may institute or defend actions, claims, or proceedings in any jurisdiction for the protection of the ward's estate. Subject to the approval of the court in which the action, claim, or proceeding has been filed, a guardian may settle or compromise the action, claim, or proceeding on behalf of the ward. If the action, claim, or proceeding has not been filed in any court, the District Court of the county where a guardian qualified shall approve the settlement or compromise. Upon approval of a settlement or compromise, a guardian may execute a release on behalf of the ward. A guardian shall receive any proceeds from a settlement for management in accordance with the provisions of this statute.*

*(7) A guardian may lease any real property of the ward until the ward reaches majority, but no lease shall be made for a term longer than seven (7) years unless otherwise approved by the District Court.*

*(8) A guardian shall obtain approval from the District Court of the county where the guardian qualified for any of the following made on behalf of the ward:*

*(a) Any lease of mineral rights;*

*(b) Any lease of oil and gas rights;*

*(c) Any sale of timber owned by the ward; or*

*(d) Any consolidation agreement, as defined by KRS 353.220.*

*To aid it in making the decision on a proposed sale, lease, or consolidation agreement, the court shall appoint a guardian ad litem for the ward. The guardian ad litem shall report to the court on the suitability of the transaction.*

*(9) A guardian shall comply with the reporting requirements specified in Section 17 of this Act.*

SECTION 9. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

*(1) A limited guardian shall have the powers and duties specified in subsections (1) to (3) of Section 7 of this Act.*

***(2) A limited guardian shall apply any property of the ward made available by the ward's conservator for the current support, care, and education of the ward.***

***(3) Any excess property of the ward which is not required for the ward's current needs shall be paid by the limited guardian to the ward's conservator.***

SECTION 10. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***A conservator shall have the powers and duties specified in Section 8 of this Act and subsections (4) to (8) of Section 7 of this Act.***

Section 11. KRS 387.070 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no guardian ***or conservator shall*** [~~can~~] act until ***the guardian or conservator*** [~~he~~] has been appointed by the proper District Court, and given bond to the ***Commonwealth of Kentucky*** [~~state~~] with good surety approved by the ***District*** Court to faithfully discharge the trust of guardian ***or conservator.*** The bond shall be carefully kept by the clerk of the District Court in a book to be provided for that purpose.

(2) A ***limited*** guardian [~~for nurture and education~~] shall be exempt from the requirements of subsection (1) of this section.

(3) If the ***person or entity appointed by the District Court as guardian or conservator is a person or entity nominated pursuant to KRS 387.040, and the will of the parent making the nomination requests no surety on the bond of the guardian or conservator, no surety shall be required on the bond, unless the District Court deems it imprudent to dispense with surety because of a change of circumstances since the will was made or for other good cause*** [~~will of the father or mother so directs, the other parent being dead, no security shall be required from the guardian, unless from change of circumstances in the guardian since making the will or other cause the court deems it imprudent to dispense therewith~~].

(4) No master or other commissioner whose duty it is to settle the accounts of a guardian ***or conservator,*** nor judge or clerk of a court, or practicing attorney, shall be accepted as surety on the bond of a guardian ***or conservator.***

(5) If the ***District*** Court fails to take a bond, or accepts ***inadequate*** [~~persons as~~] surety ***on the bond,*** [~~as do not satisfy it of their sufficiency,~~] the judge [~~so~~] in default and ***the surety of the guardian or conservator*** [~~his sureties~~] shall be jointly and severally liable to the ward for any damage ***the ward*** [~~he~~] may sustain thereby***, including reasonable attorney's fees and costs incurred in collecting damages.***

Section 12. KRS 387.080 is amended to read as follows:

(1) Anyone damaged by the act or omission of ***the ward's*** [~~a~~] guardian ***or conservator*** [~~as such~~] may sue upon ***the*** [~~his~~] bond ***of the guardian or conservator for damages, including reasonable attorney's fees and costs incurred in collecting damages.*** With the assent of the District Court, anyone may sue ***on the bond*** [~~thereon~~] as next friend of the ward before ***the ward*** [~~he~~] has attained full age.

(2) If a guardian ***or conservator*** commits waste of the ***ward's*** estate, ***the guardian or conservator and surety for the guardian or conservator*** [~~of his ward, he and his sureties~~] shall be liable on ***the*** [~~his~~] bond to the ward for damages***, including reasonable attorney's fees and costs incurred in collecting damages***[~~, at the expiration of his guardianship~~].

SECTION 13. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

***The District Court may direct that all or some part of the assets of a ward's estate be deposited in a bank, trust company, or insured savings and loan company authorized to transact business in the Commonwealth or in a single-premium deferred annuity, subject to withdrawal by the guardian or conservator only upon authorization of the District Court.***

Section 14. KRS 387.090 is amended to read as follows:

(1) ***The District Court shall remove a guardian, limited guardian, or conservator if:***

***(a) The guardian, limited guardian, or conservator becomes insane, moves out of the Commonwealth, becomes incapable of discharging the duties of the appointment, or fails for any reason to discharge the duties of the appointment; or***

***(b) The District Court deems the removal of the guardian, limited guardian, or conservator to be in the best interest of the ward.*** [~~When a guardian becomes insane, moves out of the stae, becomes incapable of discharging the duties of his trust or is evidently unsuited therefor, the court on being satisfied that either of the causes aforenamed exists shall remove him, or, when it appears proper,~~]

***(2)*** The court may permit ***a guardian, limited guardian, or conservator*** [~~him~~] to resign [~~his trust~~] if ***the guardian, limited guardian, or conservator*** [~~he~~] first ***files a final settlement*** [~~settles his accounts~~] and delivers the ***ward's*** estate as ***directed by*** the ***District*** Court [~~directs. In either case, or when from any cause there is a vacancy in the office of guardian, the court may appoint a guardian~~].

***(3)***[~~(2)~~] ***When a guardian, limited guardian, or conservator resigns or is removed from office by the District Court, the District Court shall appoint a new person or entity to serve as the ward's guardian, limited guardian, or conservator.***

***(4)*** The ***District*** Court may [~~also~~] remove a guardian, ***limited guardian, or conservator*** for failing to make ***an account or inventory*** [~~a settlement of his accounts~~] as required by law, or as may be required by the ***District*** Court, or for failing to give additional surety when required.

[~~(3) When the biological or adoptive parents of a disabled person are appointed co-guardians of that person and one (1) of the co-guardians dies, the survivor shall become the successor guardian without any additional action by the court.~~]

Section 15. KRS 387.100 is amended to read as follows:

(1) A guardian ***or conservator*** shall, within sixty (60) days after [~~his~~] appointment, ***file with*** [~~return to~~] the ***District*** Court a true and ***correct*** [~~perfect~~] inventory of the ***ward's*** real and personal property ***and other financial resources*** [~~of the ward~~], signed by ***the guardian or conservator*** [~~him~~] and verified by ***the*** [~~his~~] affidavit ***of the guardian or conservator***. If other property afterward comes to ***the guardian's or conservator's*** [~~his~~] knowledge, ***the guardian or conservator*** [~~he~~] shall ***file*** [~~return~~] a supplementary inventory thereof within sixty (60) days from the time of obtaining such knowledge. [~~For failure to make return within the time provided, the court may remove the guardian.~~]

(2) The inventory shall describe the real property and where situated, with its probable value, and the probable value of its rent. It shall include a list of all personal property, including debts due the ward, with its probable value.

SECTION 16. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***Guardians, limited guardians, and conservators shall receive reasonable compensation for services rendered and reimbursement for reasonable and necessary expenses incurred in the exercise of their assigned duties and powers, including reimbursement for room, board, and clothing personally provided to the ward. The compensation and reimbursement shall be paid from the estate of the ward. Compensation of guardians and conservators shall not exceed that provided for in KRS 386.180.***

SECTION 17. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***A guardian and conservator shall file accounts of the execution of the guardian's or conservator's trust. The accountings shall be subject to the provisions of KRS 395.610 to 395.657 and 395.990, and shall be made in accordance with those provisions, except as follows:***

***(a) An accounting of a guardian or conservator shall be filed one (1) year after appointment of the guardian or conservator, and annually thereafter;***

***(b) Each accounting shall include, in addition to the items specified in KRS 395.610, a plan for preserving and maintaining the estate under the control or supervision of the guardian or conservator.***

SECTION 18. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***(1) A foreign guardian or conservator of a ward who is not a resident of the Commonwealth of Kentucky may sue for, collect, receive, and remove from the Commonwealth the ward's personal property located in the Commonwealth, if the District Court of the county having venue pursuant to KRS 387.020, after notice and hearing determines that:***

***(a) The foreign guardian or conservator was appointed and qualified according to the law of the state where the ward resides;***

***(b) The foreign guardian or conservator has given bond in the state where the foreign guardian or conservator qualified with sufficient surety to account for all the ward's estate, including the property to be removed from Kentucky;***

***(c) Neither the ward nor any of the ward's creditors shall be prejudiced by removal of the ward's property from the Commonwealth.***

***(2) Notice of the time and place of the hearing shall be given not less than ten (10) days prior to***

***the hearing to the ward's resident guardian, limited guardian, or conservator, if any, or to the ward's adult next of kin, if there is no guardian, limited guardian, or conservator in this Commonwealth. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.***

Section 19. KRS 387.200 is amended to read as follows:

Resident guardians ***and conservators*** shall not remove out of this ***Commonwealth*** [~~state~~] any of the property of their wards without first obtaining the ***approval*** [~~sanction~~] of a ***District*** [~~Circuit~~] Court of the county in which the guardian ***or conservator*** was qualified. The ***District*** Court, upon the petition sworn to by the guardian ***or conservator*** and such proof as may be deemed necessary, may authorize the removal of the property of the ward out of this ***Commonwealth*** [~~state~~], upon terms and conditions that are equitable and just and will secure and protect the rights and interests of the ward. Guardians ***and conservators*** may be restrained from the unlawful removal of property of their wards out of this ***Commonwealth*** [~~state~~] upon the petition of the ward by next friend, or upon the petition of any surety ***on the bond of the guardian or conservator*** [~~of the guardian in his bond as such~~].

Section 20. KRS 387.270 is amended to read as follows:

(1) If from any source a balance is owing by a guardian ***or conservator*** at the end of any year, counting from the time of [~~his~~] appointment ***of the guardian or conservator***, which should have been invested for the benefit of the ward in reasonable time but which remains in ***the guardian's or conservator's*** [~~his~~] hands, ***the guardian or conservator*** [~~he~~] shall be charged with ***the legal rate of*** interest ***compounded annually*** from the end of the year in which the balance arose[~~, and thereafter he shall be charged with interest compounded every two (2) years~~].

(2) [~~Guardians and curators appointed and qualifying after June 24, 1906, shall be charged with the following rates of interest, to-wit: Where the amount received and held in trust does not exceed five thousand dollars ($5,000), five percent (5%); where the amount received and held in trust exceeds five thousand dollars ($5,000), four percent (4%). However, in lieu of the foregoing,~~] those appointed and qualifying after July 15, 1980 shall be charged with the legal interest rate.

(3)] However, nothing in this section shall prohibit or prevent ***a guardian or conservator*** [~~these fiduciaries~~] from accounting for or being chargeable with sums in excess of the rates herein fixed realized upon any investment of trust funds made by the ***guardian or conservator*** [~~fiduciary~~].

Section 21. KRS 387.280 is amended to read as follows:

***When*** [~~Whenever~~] a ***minor or other*** person under disability, having no guardian, ***or conservator*** is entitled to receive a sum not exceeding ten thousand dollars ($10,000), exclusive of interest, in any action ***in which*** [~~wherein~~] real estate has been sold or in the settlement of any estate or from any other source, the court in which the action is pending, or, if the sum does not derive from such action, the District Court, may order the sum to be paid to the persons having custody of ***the minor or other person under disability*** [~~such ward~~]. Before entering the order, the court shall be satisfied by affidavit or oral testimony that the ***minor or other person under disability*** [~~ward~~] is in the custody of the person to whom it is proposed to pay the money and the latter, upon withdrawal of the money, shall be under obligation as trustee to expend it, for the support, maintenance, or education of the ***minor or other person under disability*** [~~ward~~]. When the order is made, no bond shall be required of the person having custody of the ***minor or other person under disability*** [~~ward~~] and the purchaser of the real property may pay the share ***of the minor or other person under disability*** into court, and no lien shall remain on the property therefor and the money may be withdrawn by the person mentioned in the order without ***that person*** [~~his~~] giving bond. [~~A release executed by the person to whom the court has ordered the sum paid shall have the same effect as a release by a duly appointed guardian.~~]

Section 22. KRS 387.730 is amended to read as follows:

***(1)*** A parent, spouse or child of a partially disabled or disabled person who has been appointed as limited guardian, guardian, limited conservator, or conservator of that person may, by will, nominate an individual to succeed in that capacity upon the testator's death. Such nomination shall be reviewed by the court pursuant to KRS 387.620 upon admitting the will to probate if no other person is serving in that capacity at the time of the testator's death and no standby guardian or conservator has been appointed.

***(2) When the biological or adoptive parents of a disabled person are appointed co-guardians of that person and one (1) of the co-guardians dies, the survivor shall become the successor guardian without any additional action by the court.***

Section 23. KRS 395.610 is amended to read as follows:

(1) Two (2) years after appointment and annually thereafter, unless otherwise provided by law, every

fiduciary as defined in KRS 395.001, other than a testamentary trustee or a guardian or conservator of a mentally disabled person, ***shall*** [~~must~~] render an account of the execution of his trust to the court by which he was appointed, including in ***the*** [~~such~~] account an itemized statement of receipts and disbursements supported by vouchers accompanying the ***account*** [~~same~~] and a statement of all investments on hand and changes in investments since the filing of his last account. ***The*** [~~Provided, however, that guardians, after their first accounting, shall render their accounts thereafter biennially, or at shorter intervals if the court shall require it. Such~~] settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust, ***the*** [~~such~~] fiduciary ***shall*** [~~must~~] fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary, except of corporate fiduciaries under the supervision of state or federal banking authorities, shall be approved until there are exhibited to the court, for its examination, the security or securities shown in ***the*** [~~said~~] account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

(2) Testamentary trustees and guardians and conservators of mentally disabled persons shall not be required to render accountings to the court under the provisions of this section. However, trustees may be required to file accounts pursuant to judicial proceedings under KRS 386.675. Guardians and conservators of mentally disabled persons shall comply with the reporting requirements of KRS Chapter 387.

SECTION 24. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***(1) The provisions of KRS 387.010 to 387.280 shall apply to:***

***(a) Any guardian, limited guardian, or conservator appointed after the effective date of this Act; and***

***(b) Any guardian for a minor ward appointed prior to the effective date of this Act, unless the guardian was appointed pursuant to KRS 387.500 to 387.770.***

***(2) A guardian for a minor ward appointed prior to the effective date of this Act shall have the powers and duties:***

***(a) Specified in Section 9 of this Act, if the guardian was appointed to have care, custody and control of a minor;***

***(b) Specified in Section 10 of this Act, if the guardian was appointed to manage the financial resources of a minor;***

***(c) Specified in Sections 7 and 8 of this Act, if the guardian was appointed to have care, custody, and control of a minor and to manage the minor's financial resources.***

SECTION 25. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding anything in KRS 387.010 to 387.280 to the contrary, when the guardian or conservator is in reasonable doubt as to the right to use the income or principal from the ward's financial resources for the benefit of the ward as provided in such statutes, inclusive, the guardian or conservator may apply to the District Court for permission to do so by filing a verified petition stating the reasons for the application. The court may grant the order ex parte, and the order shall be prima facie protection to the guardian or conservator in the settlement of the guardianship or conservatorship accounts.***

Section 26. The following KRS sections are repealed:

387.030 Order of precedence for appointment of guardian.

387.060 Guardian to control ward and his estate — Compensation.

387.120 Limitation of disbursements for care of minor — Court order to use principal of personalty.

387.130 Guardian to pay debts of ward's ancestor — To collect ward's claims and represent his interests.

387.140 Sale or lease of property by guardian.

387.170 Accounting and settlement by guardian for income from lease — Assignment of one-half of income from lease to surviving spouse where dower and curtesy is outstanding in mineral rights — Descent of leasehold estate.

387.180 Settlement of guardian's accounts.

387.190 Nonresident guardian of nonresident ward — Powers.

The House Committee Substitute to **SB 173** is as follows:

**SB 173,** AN ACT relating to guardianship.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 387.010 is amended to read as follows:

As used in ***KRS 387.010 to 387.280*** [~~this chapter~~], unless the context requires otherwise:

(1) [~~"Infant" or~~] "Minor" means any person who has not reached the age of eighteen (18).

(2) "Interested person ***or entity" means an adult relative or friend of the minor, an official or representative of a public or private agency, corporation, or association concerned with the minor's welfare, or any other person found suitable by the District Court*** [~~" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a minor. It also includes persons having priority for appointment as fiduciaries~~].

***(3) "Guardian" means an individual, agency, or corporation appointed by the District Court to have care, custody, and control of a minor and to manage the minor's financial resources.***

***(4) "Limited guardian" means an individual, agency, or corporation appointed by the District Court to have care, custody and control of a minor without the power to manage the minor's financial resources.***

***(5) "Conservator" means an individual, agency, or corporation appointed by the District Court to manage the financial resources of a minor.***

***(6) "Ward" means a person for whom a guardian, limited guardian, or conservator has been appointed.***

***(7) "Parent" means a mother or father whose parental rights have not been terminated or suspended by prior court order.***

Section 2. KRS 387.020 is amended to read as follows:

***(1)*** District Courts shall have ***exclusive*** jurisdiction for the appointment and removal of guardians***, limited guardians, and conservators for*** [~~to~~] minors, and ***for*** the ***management and*** settlement of their accounts. [~~The district court of the county in which the minor resides at the time of appointment shall have the jurisdiction; but if the appointment is made by the will of the father or mother of the minor, then the jurisdiction shall be in the district court of the county in which the will was probated; and if the minor be a nonresident of the State of Kentucky and has real estate or an interest in real estate in the State of Kentucky, the jurisdiction shall be in the district court of that county in which some portion of such real estate may lie; if the minor be a nonresident of the State of Kentucky and has no real estate or interest in real estate in the State of Kentucky, but has personal property in the State of Kentucky, then the jurisdiction shall be in the district court of that county in which such personal property is located; if the minor be a nonresident of the State of Kentucky and has real estate or personal property or an interest in real estate or personal property in more than one county in the State of Kentucky, then the jurisdiction shall be in the district court of either or any of such counties in which the real estate or personal property is located which first takes jurisdiction in proceedings for the appointment of a guardian, and in the appointing of a guardian for a minor who is a nonresident as herein provided for the guardianship shall be only for that property or interest in property within the State of Kentucky. In the event of a minor who resides in the State of Kentucky but has no property within the State of Kentucky, either real or personal, but it is necessary that a guardian be appointed to give consent to marriage, or enlistment in the Army or Navy, or in any other case where the law requires the consent of a guardian, then and in that event the district court of the county in which the minor has resided not less than one year shall have the jurisdiction and authority to appoint a guardian for the purpose of giving such consent.~~]

***(2) If the minor is a resident of the Commonwealth of Kentucky, venue for all proceedings under KRS 387.010 to 387.280 shall be:***

***(a) In the county where the will of the minor's last surviving parent was probated, if that will nominates a guardian, limited guardian, or conservator pursuant to KRS 387.040;***

***(b) In all other cases, in the county where the minor resides.***

***(3) If the minor is not a resident of the Commonwealth of Kentucky, the venue for all proceedings***

***under KRS 387.010 to 387.280 shall be in the county where the real or personal property of the minor is located, or if the minor has real or personal property in more than one (1) county, then venue shall be in any one (1) of the counties where property of the minor is located and where proceedings are first brought for the appointment of a guardian, limited guardian, or conservator.***

Section 3. KRS 387.025 is amended to read as follows:

***(1)*** Any interested person ***or entity*** may petition the ***District*** Court for the appointment of a guardian ***or limited guardian for an unmarried minor*** [~~but before an appointment is made, the petitioner shall make and file in duplicate a written application under oath, which must state the name, age and residence of the ward, the ward's husband or wife and each of the ward's parents, or if there be no spouse or parents, the names, ages and residence of the next of kin, the name of the person having custody of the ward, a brief description of the ward's estate and its probable value, and the estimated annual income therefrom~~].

***(2) Any interested person or entity may petition the District Court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.***

***(3) The petition for appointment shall set forth the following:***

***(a) The name and address of the minor;***

***(b) The date of birth of the minor;***

***(c) The name and address of the minor's spouse, if any;***

***(d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;***

***(e) The name and address of the individual or facility having custody of the minor;***

***(f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;***

***(g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;***

***(h) The name and address of the petitioner;***

***(i) The name and address of the petitioner's attorney, if any; and***

***(j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.***

***(4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:***

***(a) Name, address, and age of the applicant;***

***(b) The applicant's relationship to the minor, if any;***

***(c) Whether or not the applicant has ever been convicted of a crime; and***

***(d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.***

***(5)*** A duplicate copy of ***the petition and*** [~~said~~] application shall be mailed by the clerk to the ***secretary*** [~~commissioner~~] of ***the*** Revenue ***Cabinet*** [~~of the state of Kentucky~~]. The ***District*** Court shall [~~thereupon~~] appoint a time for hearing ***the petition and*** [~~such~~] application. ***Notice of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities required to be named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016*** [~~Notice thereof shall be given to the minor if more than fourteen years of age; to the person having custody of the ward; to the husband or wife and each parent of the ward, or if none, to the next of kin residing in the state in the manner provided in KRS 395.016~~].

SECTION 4. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***In appointing a guardian, limited guardian or conservator, the District Court shall appoint any person***

***or entity whose appointment would be in the best interest of the minor, taking into consideration the ability of the person or entity to manage and preserve the minor's estate, and taking into consideration the person or entity nominated pursuant to KRS 387.040 or 387.050.***

Section 5. KRS 387.040 is amended to read as follows:

***The last surviving parent of a minor*** [~~If one of the parents is dead, the survivor~~] may by will ***nominate*** [~~appoint~~] a guardian***, or alternatively a limited guardian, or conservator, or both, for the minor. One (1) person or entity may be nominated to manage the minor's financial resources and another to have care, custody, and control of the minor*** [~~to his infant child during its minority, or for any less period. He may appoint the guardianship of the minor's estate to one, and the custody, nurture and education of the minor to another~~].

Section 6. KRS 387.050 is amended to read as follows:

If the minor is fourteen (14) years of age or older, ***the minor*** [~~he~~] may, in the presence of the ***District*** Court, or by a writing signed in the presence of the judge, after privy examination, nominate his own guardian, ***limited guardian, or conservator,*** or if ***the*** [~~such~~] minor be absent from the county, ***the minor*** [~~he~~] may after privy examination, in the presence of the district judge of the county where ***the minor*** [~~he~~] is, or if ***the minor*** [~~he~~] be in the military or naval services of the United States, after privy examination, in the presence of a superior commanding officer, by a writing signed in the presence of ***the*** [~~such~~] judge or superior officer nominate his own guardian***, limited guardian, or conservator,*** provided that ***the*** [~~such~~] judge or ***the*** [~~such~~] commanding officer certify to the district judge of the county having jurisdiction to appoint a guardian***, limited guardian, or conservator*** for ***the minor*** [~~such ward~~] that ***the*** [~~said~~] writing was signed by ***the*** [~~such~~] minor [~~and~~] after privy examination in the presence of ***the*** [~~such~~] judge or officer[~~; but If the person so nominated is not approved by the court, or if the minor, after summons, fails to nominate a suitable person, or if the minor resides out of the state, or if the testamentary guardian fails for three months to qualify, the court may appoint a guardian of its own selection~~].

SECTION 7. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***(1) A guardian of a ward shall have the powers and responsibilities of a parent regarding the ward's support, care, and education, but a guardian shall not be personally liable for the ward's expenses and shall not be liable to third persons by reason of the relationship for acts of the ward.***

***(2) In particular and without qualifying the foregoing, a guardian shall:***

***(a) Take custody of the person of the ward and establish the ward's place of abode within the Commonwealth; and***

***(b) Take reasonable care of the ward's personal effects.***

***(3) A guardian may:***

***(a) Receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract, devise, trust, or custodianship;***

***(b) Consent to medical or other professional care, treatment, or advice for the ward, without liability by reason of the consent, for injury to the ward resulting from the negligence or acts of third persons unless a parent would have been liable in the circumstances;***

***(c) Consent to the ward's marriage, adoption, or enlistment in military service;***

***(d) Extend funds of the ward's estate for the support of persons legally dependent on the ward.***

***(4) A guardian shall expend or distribute income or principal of the ward's estate without District Court authorization or confirmation for the support, care, and education of the ward. The District Court may limit or restrict the guardian's exercise of this power.***

***(5) In performing the guardian's duties relating to support, care, and education of the ward, a guardian shall consider:***

***(a) Recommendations relating to the appropriate standard of support, care, and education for the ward made by a parent or limited guardian, if any;***

***(b) The size of the estate under the guardian's supervision or control;***

***(c) The ward's age, capacities, limitations, needs, opportunities, and physical and mental health;***

*(d) The likelihood that the ward will be able to labor and earn money when the ward becomes an adult;*

*(e) The accustomed standard of living of the ward; and*

*(f) Other funds or sources used for the support of the ward which have not been placed under the control or supervision of the guardian.*

*(6) A guardian shall not provide for the support, care, or education of a ward which a parent of the ward is legally obligated and financially able to provide.*

*(7) Funds expended under this section may be paid by a guardian to any person, including the ward, to reimburse for expenditures that the guardian might have made, or in advance for services to be rendered to the ward if it is reasonable to expect the services will be performed and advance payments are customary or reasonably necessary under the circumstances.*

*(8) When a ward attains age eighteen (18), the guardian, after meeting all claims and expenses of administration, and upon demand of the ward, shall pay over and distribute all funds and properties to the ward as soon as possible.*

SECTION 8. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

*(1) A guardian shall apply the income or principal of the ward's estate to the payment of debts, taxes, claims, charges, and expenses of the guardianship and, in accordance with Section 7 of this Act, for the support, care, and education of the ward or the ward's dependents.*

*(2) A guardian shall take possession of all of the ward's real and personal property.*

*(3) A guardian may sell any of the ward's personal property without District Court authorization or confirmation. To sell any of the ward's real property, a guardian shall comply with the provisions of KRS Chapter 389A.*

*(4) A guardian shall invest any of the ward's money or property which is not required for the ward's current support, care and education. The investments made of a ward's funds shall be investments authorized by KRS 386.020.*

*(5) A guardian may expend the ward's funds to repair and maintain the ward's personal and real property.*

*(6) A guardian may institute or defend actions, claims, or proceedings in any jurisdiction for the protection of the ward's estate. Subject to the approval of the court in which the action, claim, or proceeding has been filed, a guardian may settle or compromise the action, claim, or proceeding on behalf of the ward. If the action, claim, or proceeding has not been filed in any court, the District Court of the county where a guardian qualified shall approve the settlement or compromise. Upon approval of a settlement or compromise, a guardian may execute a release on behalf of the ward. A guardian shall receive any proceeds from a settlement for management in accordance with the provisions of this statute.*

*(7) A guardian may lease any real property of the ward until the ward reaches majority, but no lease shall be made for a term longer than seven (7) years unless otherwise approved by the District Court.*

*(8) A guardian shall obtain approval from the District Court of the county where the guardian qualified for any of the following made on behalf of the ward:*

*(a) Any lease of mineral rights;*

*(b) Any lease of oil and gas rights;*

*(c) Any sale of timber owned by the ward; or*

*(d) Any consolidation agreement, as defined by KRS 353.220.*

*To aid it in making the decision on a proposed sale, lease, or consolidation agreement, the court shall appoint a guardian ad litem for the ward. The guardian ad litem shall report to the court on the suitability of the transaction.*

*(9) A guardian shall comply with the reporting requirements specified in Section 17 of this Act.*

SECTION 9. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

*(1) A limited guardian shall have the powers and duties specified in subsections (1) to (3) of Section 7 of this Act.*

***(2) A limited guardian shall apply any property of the ward made available by the ward's conservator for the current support, care, and education of the ward.***

***(3) Any excess property of the ward which is not required for the ward's current needs shall be paid by the limited guardian to the ward's conservator.***

SECTION 10. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***A conservator shall have the powers and duties specified in Section 8 of this Act and subsections (4) to (8) of Section 7 of this Act.***

Section 11. KRS 387.070 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no guardian ***or conservator shall*** [~~can~~] act until ***the guardian or conservator*** [~~he~~] has been appointed by the proper District Court, and given bond to the ***Commonwealth of Kentucky*** [~~state~~] with good surety, ***either corporate or personal,*** approved by the ***District*** Court to faithfully discharge the trust of guardian ***or conservator***. The bond shall be carefully kept by the clerk of the District Court in a book to be provided for that purpose.

(2) A ***limited*** guardian [~~for nurture and education~~] shall be exempt from the requirements of subsection (1) of this section.

(3) If the ***person or entity appointed by the District Court as guardian or conservator is a person or entity nominated pursuant to KRS 387.040, and the will of the parent making the nomination requests no surety on the bond of the guardian or conservator, no surety shall be required on the bond, unless the District Court deems it imprudent to dispense with surety because of a change of circumstances since the will was made or for other good cause*** [~~will of the father or mother so directs, the other parent being dead, no security shall be required from the guardian, unless from change of circumstances in the guardian since making the will or other cause the court deems it imprudent to dispense therewith~~].

(4) No master or other commissioner whose duty it is to settle the accounts of a guardian ***or conservator***, nor judge or clerk of a court, or practicing attorney, shall be accepted as surety on the bond of a guardian ***or conservator***.

(5) If the ***District*** Court fails to take a bond, or accepts ***inadequate*** [~~persons as~~] surety ***on the bond,*** [~~as do not satisfy it of their sufficiency,~~] the judge [~~so~~] in default and ***judge's*** [~~his~~] sureties shall be jointly and severally liable to the ward for any damage ***the ward*** [~~he~~] may sustain thereby***, including reasonable attorney's fees and costs incurred in collecting damages***.

Section 12. KRS 387.080 is amended to read as follows:

(1) Anyone damaged by the act or omission of ***the ward's*** [~~a~~] guardian ***or conservator*** [~~as such~~] may sue upon ***the*** [~~his~~] bond ***of the guardian or conservator for damages, including reasonable attorney's fees and costs incurred in collecting damages***. With the assent of the District Court, anyone may sue ***on the bond*** [~~thereon~~] as next friend of the ward before ***the ward*** [~~he~~] has attained full age.

(2) If a guardian ***or conservator*** commits waste of the ***ward's*** estate***, the guardian or conservator and surety for the guardian or conservator*** [~~of his ward, he and his sureties~~] shall be liable on ***the*** [~~his~~] bond to the ward for damages***, including reasonable attorney's fees and costs incurred in collecting damages***[~~; at the expiration of his guardianship~~].

SECTION 13. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

***The District Court may direct that all or some part of the assets of a ward's estate be deposited in a bank, trust company, or insured savings and loan company authorized to transact business in the Commonwealth or in a single-premium deferred annuity, subject to withdrawal by the guardian or conservator only upon authorization of the District Court.***

Section 14. KRS 387.090 is amended to read as follows:

(1) ***The District Court shall remove a guardian, limited guardian, or conservator if:***

***(a) The guardian, limited guardian, or conservator becomes insane, moves out of the Commonwealth, becomes incapable of discharging the duties of the appointment, or fails for any reason to discharge the duties of the appointment; or***

***(b) The District Court deems the removal of the guardian, limited guardian, or conservator to be in the best interest of the ward.*** [~~When a guardian becomes insane, moves out of the state, becomes incapable of discharging the duties of his trust or is evidently unsuited therefor, the court on being satisfied that either of the causes aforenamed exists shall remove him, or, when it appears proper,~~]

***(2)*** The ***District*** Court may permit ***a guardian, limited guardian, or conservator*** [~~him~~] to resign [~~his trust~~] if ***the guardian, limited guardian, or conservator*** [~~he~~] first ***files a final settlement*** [~~settles his accounts~~] and delivers the ***ward's*** estate as ***directed by*** the ***District*** Court [~~directs. In either case, or when from any cause there is a vacancy in the office of guardian, the court may appoint a guardian~~].

***(3)***[~~(2)~~] ***When a guardian, limited guardian, or conservator resigns or is removed from office by the District Court, the District Court shall appoint a new person or entity to serve as the ward's guardian, limited guardian, or conservator.***

***(4)*** The ***District*** Court may [~~also~~] remove a guardian***, limited guardian, or conservator*** for failing to make ***an account or inventory*** [~~a settlement of his accounts~~] as required by law, or as may be required by the ***District*** Court, or for failing to give additional surety when required.

[~~(3) When the biological or adoptive parents of a disabled person are appointed co-guardians of that person and one (1) of the co-guardians dies, the survivor shall become the successor guardian without any additional action by the court.~~]

Section 15. KRS 387.100 is amended to read as follows:

(1) A guardian ***or conservator*** shall, within sixty (60) days after [~~his~~] appointment, ***file with*** [~~return to~~] the ***District*** Court a true and ***correct*** [~~perfect~~] inventory of the ***ward's*** real and personal property ***and other financial resources*** [~~of the ward~~], signed by ***the guardian or conservator*** [~~him~~] and verified by ***the*** [~~his~~] affidavit ***of the guardian or conservator***. If other property afterward comes to ***the guardian's or conservator's*** [~~his~~] knowledge, ***the guardian or conservator*** [~~he~~] shall ***file*** [~~return~~] a supplementary inventory thereof within sixty (60) days from the time of obtaining such knowledge. [~~For failure to make return within the time provided, the court may remove the guardian.~~]

(2) The inventory shall describe the real property and where situated, with its probable value, and the probable value of its rent. It shall include a list of all personal property, including debts due the ward, with its probable value.

SECTION 16. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***Guardians, limited guardians, and conservators shall receive reasonable compensation for services rendered and reimbursement for reasonable and necessary expenses incurred in the exercise of their assigned duties and powers, including reimbursement for room, board, and clothing personally provided to the ward. The compensation and reimbursement shall be paid from the estate of the ward. Compensation of guardians and conservators shall not exceed that provided for in KRS 386.180.***

SECTION 17. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***A guardian and conservator shall file accounts of the execution of the guardian's or conservator's trust. The accountings shall be subject to the provisions of KRS 395.610 to 395.657 and 395.990, and shall be made in accordance with those provisions, except as follows:***

***(a) An accounting of a guardian or conservator shall be filed one (1) year after appointment of the guardian or conservator, and annually thereafter unless the ward's net estate is five thousand dollars ($5,000) or less, in which case the accounting shall be made on a biennial basis;***

***(b) Each accounting shall include, in addition to the items specified in KRS 395.610, a plan for preserving and maintaining the estate under the control or supervision of the guardian or conservator. This subsection shall not be applicable to estates of wards with a net value of five thousand dollars ($5,000) or less.***

SECTION 18. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***(1) A foreign guardian or conservator of a ward who is not a resident of the Commonwealth of Kentucky may sue for, collect, receive, and remove from the Commonwealth the ward's personal property located in the Commonwealth, if the District Court of the county having venue pursuant to KRS 387.020, after notice and hearing determines that:***

***(a) The foreign guardian or conservator was appointed and qualified according to the law of the state where the ward resides;***

***(b) The foreign guardian or conservator has given bond in the state where the foreign guardian or conservator qualified with sufficient surety to account for all the ward's estate, including the property to be removed from Kentucky;***

***(c) Neither the ward nor any of the ward's creditors shall be prejudiced by removal of the ward's property from the Commonwealth.***

***(2) Notice of the time and place of the hearing shall be given not less than ten (10) days prior to the hearing to the ward's resident guardian, limited guardian, or conservator, if any, or to the ward's adult next of kin, if there is no guardian, limited guardian, or conservator in this Commonwealth. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.***

Section 19. KRS 387.200 is amended to read as follows:

Resident guardians ***and conservators*** shall not remove out of this ***Commonwealth*** [~~state~~] any of the property of their wards without first obtaining the ***approval*** [~~sanction~~] of a ***District*** [~~Circuit~~] Court of the county in which the guardian ***or conservator*** was qualified. The ***District*** Court, upon the petition sworn to by the guardian ***or conservator*** and such proof as may be deemed necessary, may authorize the removal of the property of the ward out of this ***Commonwealth*** [~~state~~], upon terms and conditions that are equitable and just and will secure and protect the rights and interests of the ward. Guardians ***and conservators*** may be restrained from the unlawful removal of property of their wards out of this ***Commonwealth*** [~~state~~] upon the petition of the ward by next friend, or upon the petition of any surety ***on the bond of the guardian or conservator*** [~~of the guardian in his bond as such~~].

Section 20. KRS 387.270 is amended to read as follows:

(1) If from any source a balance is owing by a guardian ***or conservator*** at the end of any year, counting from the time of [~~his~~] appointment ***of the guardian or conservator***, which should have been invested for the benefit of the ward in reasonable time but which remains in ***the guardian's or conservator's*** [~~his~~] hands, ***the guardian or conservator*** [~~he~~] shall be charged with ***the legal rate of*** interest ***compounded annually*** from the end of the year in which the balance arose[~~, and thereafter he shall be charged with interest compounded every two (2) years~~].

(2) [~~Guardians and curators appointed and qualifying after June 24, 1906, shall be charged with the following rates of interest, to-wit: Where the amount received and held in trust does not exceed five thousand dollars ($5,000), five percent (5%); where the amount received and held in trust exceeds five thousand dollars ($5,000), four percent (4%). However, in lieu of the foregoing~~, those appointed and qualifying after July 15, 1980 shall be charged with the legal interest rate.

(3)] However, nothing in this section shall prohibit or prevent ***a guardian or conservator*** [~~these fiduciaries~~] from accounting for or being chargeable with sums in excess of the rates herein fixed realized upon any investment of trust funds made by the ***guardian or conservator*** [~~fiduciary~~].

Section 21. KRS 387.280 is amended to read as follows:

***When*** [~~Whenever~~] a ***minor or other*** person under disability, having no guardian, ***or conservator*** is entitled to receive a sum not exceeding ten thousand dollars ($10,000), exclusive of interest, in any action ***in which*** [~~wherein~~] real estate has been sold or in the settlement of any estate or from any other source, the court in which the action is pending, or, if the sum does not derive from such action, the District Court, may order the sum to be paid to the persons having custody of ***the minor or other person under disability*** [~~such ward~~]. Before entering the order, the court shall be satisfied by affidavit or oral testimony that the ***minor or other person under disability*** [~~ward~~] is in the custody of the person to whom it is proposed to pay the money and the latter, upon withdrawal of the money, shall be under obligation as trustee to expend it, for the support, maintenance, or education of the ***minor or other person under disability*** [~~ward~~]. When the order is made, no bond shall be required of the person having custody of the ***minor or other person under disability*** [~~ward~~] and the purchaser of the real property may pay the share ***of the minor or other person under disability*** into court, and no lien shall remain on the property therefor and the money may be withdrawn by the person mentioned in the order without ***that person*** [~~his~~] giving bond. [~~A release executed by the person to whom the court has ordered the sum paid shall have the same effect as a release by a duly appointed guardian.~~]

Section 22. KRS 387.730 is amended to read as follows:

***(1)*** A parent, spouse or child of a partially disabled or disabled person who has been appointed as limited guardian, guardian, limited conservator, or conservator of that person may, by will, nominate an individual to succeed in that capacity upon the testator's death. Such nomination shall be reviewed by the court pursuant to KRS 387.620 upon admitting the will to probate if no other person is serving in that capacity at the time of the testator's death and no standby guardian or conservator has been appointed.

***(2) When the biological or adoptive parents of a disabled person are appointed co-guardians of that person and one (1) of the co-guardians dies, the survivor shall become the successor guardian without any additional action by the court.***

Section 23. KRS 395.610 is amended to read as follows:

(1) Two (2) years after appointment and annually thereafter, unless otherwise provided by law, every fiduciary as defined in KRS 395.001, other than a testamentary trustee or a guardian or conservator of a mentally disabled person, ***shall*** [~~must~~] render an account of the execution of his trust to the cort by which he was appointed, including in ***the*** [~~such~~] account an itemized statement of receipts and disbursements supported by vouchers accompanying the ***account*** [~~same~~] and a statement of all investments on hand and changes in investments since the filing of his last account. ***The*** [~~Provided, however, that guardians, after their first accounting, shall render their accounts thereafter biennially, or at shorter intervals if the court shall require it. Such~~] settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust, ***the*** [~~such~~] fiduciary ***shall*** [~~must~~] fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary, except of corporate fiduciaries under the supervision of state or federal banking authorities, shall be approved until there are exhibited to the court, for its examination, the security or securities shown in ***the*** [~~said~~] account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

(2) Testamentary trustees and guardians and conservators of mentally disabled persons shall not be required to render accountings to the court under the provisions of this section. However, trustees may be required to file accounts pursuant to judicial proceedings under KRS 386.675. Guardians and conservators of mentally disabled persons shall comply with the reporting requirements of KRS Chapter 387.

SECTION 24. A NEW SECTION OF KRS 387.010 TO 387.280 IS CREATED TO READ AS FOLLOWS:

***(1) The provisions of KRS 387.010 to 387.280 shall apply to:***

***(a) Any guardian, limited guardian, or conservator appointed after the effective date of this Act; and***

***(b) Any guardian for a minor ward appointed prior to the effective date of this Act, unless the guardian was appointed pursuant to KRS 387.500 to 387.770.***

***(2) A guardian for a minor ward appointed prior to the effective date of this Act shall have the powers and duties:***

***(a) Specified in Section 9 of this Act, if the guardian was appointed to have care, custody and control of a minor;***

***(b) Specified in Section 10 of this Act, if the guardian was appointed to manage the financial resources of a minor;***

***(c) Specified in Sections 7 and 8 of this Act, if the guardian was appointed to have care, custody, and control of a minor and to manage the minor's financial resources.***

SECTION 25. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding anything in KRS 387.010 to 387.280 to the contrary, when a guardian or conservator is in reasonable doubt as to the right to use the income or principal from the ward's estate for the benefit of the ward, the guardian or conservator may apply to the District Court for permission to do so by filing a verified petition stating the reasons for the application. The court may grant the order ex parte, and the order shall be prima facie protection to the guardian or conservator in the settlement of the guardianship or conservatorship accounts.***

SECTION 26. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

***(1) Any first notice relating to failure to file reports of any type required in this chapter and any notices of rule motions shall be sent by the court or by the party making the motion to the attorney of record for the guardian.***

***(2) If there is no attorney of record or a second or subsequent notice relating to failure to file reports, or any second or subsequent notice with regard to a rule motion, the notice shall be sent by the court or by the party making the motion to the guardian as well as to the attorney of record, if any, and the guardian.***

Section 27. The following KRS sections are repealed:

387.030 Order of precedence for appointment of guardian.

387.060 Guardian to control ward and his estate — Compensation.

387.120 Limitation of disbursements for care of minor — Court order to use principal of personalty.

387.130 Guardian to pay debts of ward's ancestor — To collect ward's claims and represent his interests.

387.140 Sale or lease of property by guardian.

387.170 Accounting and settlement by guardian for income from lease — Assignment of one-half of income from lease to surviving spouse where dower and curtesy is outstanding in mineral rights — Descent of leasehold estate.

387.180 Settlement of guardian's accounts.

387.190 Nonresident guardian of nonresident ward — Powers.

**SB 180,** AN ACT relating to trade secrets.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context requires otherwise:***

***(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means;***

***(2) "Misappropriation" means:***

***(a) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or***

***(b) Disclosure or use of a trade secret of another without express or implied consent by a person who:***

***1. Used improper means to acquire knowledge of the trade secret; or***

***2. At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:***

***a. Derived from or through a person who had utilized improper means to acquire it;***

***b. Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or***

***c. Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or***

***3. Before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.***

***(3) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.***

***(4) "Trade secret" means information, including a formula, pattern, compilation, program, data, device, method, technique, or process, that:***

***(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and***

***(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***(1) Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.***

***(2) In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional***

***circumstances shall include, but not be limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.***

***(3) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***(1) Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant shall be entitled to recover damages for misappropriation. Damages may include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.***

***(2) If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice any award made under subsection (1).***

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***If a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or resisted in bad faith, or willful and malicious misappropriation exists, the court may award reasonable attorney's fees to the prevailing party.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***In an action under this Act, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***An action for misappropriation must be brought within three (3) years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***(1) Except as provided in subsection (2) of this section, this Act replaces conflicting tort, restitutionary, and other law of this state providing civil remedies for misappropriation of a trade secret.***

***(2) This Act shall not affect:***

***(a) Contractual remedies, whether or not based upon misappropriation of a trade secret;***

***(b) Other civil remedies that are not based upon misappropriation of a trade secret; or***

***(c) Criminal remedies, whether or not based upon misappropriation of a trade secret.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***This Act may be cited as the Uniform Trade Secrets Act.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***If any provision of this Act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act shall be severable.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

***This Act shall take effect on the regular effective date of legislation enacted by the 1990 Regular Session of the Kentucky General Assembly, and shall not apply to misappropriation occurring prior to the effective***

***date. With respect to a continuing misappropriation that began prior to the effective date, this Act also shall not apply to the continuing misappropriation that occurs after the effective date.***

**SB 305,** AN ACT relating to definitions for the Kentucky Penal Code.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 500.080 is amended to read as follows:

As used in the Kentucky penal code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument***, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body***, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any weapon:

(a) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(b) Any knife other than an ordinary pocket knife or hunting knife;

(c) Billy, nightstick, or club;

(d) Blackjack or slapjack;

(e) Nunchaku karate sticks;

(f) Shuriken or death star; or

(g) Artificial knuckles made from metal, plastic or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the corrections cabinet may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state or by any law, order, rule or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral; and

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

The Committee on Transportation reported **HB 552**, **HB 705**, **HB 747**, **HB 751** with Committee Amendments attached thereto, **HB 766** with Committee Amendment attached thereto, **HB 868**, **HJR 60**, **HJR 164** with Committee Amendment attached thereto, and **HJR 185** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 552**, AN ACT relating to motor vehicle operators.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16)***, except that an instruction permit issued under provisions of KRS 186.450 and 186.470 may be received by a person three (3) months prior his sixteenth birthday***;

(2) Any person whose operator's license has been suspended, during the period of suspension;

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(4) An habitual drunkard or drug addict;

(5) Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(7) Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision;

(8) Any person who is unable to understand highway warnings or direction signs in the English language;

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11) Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths; or

(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the State Treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

**HB 705**, AN ACT relating to the operation of a motorboat or other vessel while under the influence of intoxicants or similar substances.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 235.240 is amended to read as follows:

(1) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate, [~~or~~] marijuana ***or any other substance which may impair one's ability to operate the equipment.***

***(3) A person is intoxicated or under the influence of any substance prohibited in subsection (2) of this section if he appears manifestly under the influence of alcohol or any other prohibited substance to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.***

Section 2. KRS 235.990 is amended to read as follows:

(1) Any person who violates any ***provision*** [~~of the provisions~~] of this chapter ***to which no express penalty provision applies*** shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

(2) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

***(3) Any person who violates the provisions of KRS 235.240(2) shall:***

***(a) For the first offense, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500). Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than two (2) days nor more than thirty (30) days in lieu of fine, if his offense does not come within the purview of subsection (5) of this section.***

***(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) or shall be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than two (2) days nor more than thirty (30) days in lieu of fine or imprisonment, or both, if the offense does not come within the purview of subsection (5) of this section.***

***(c) For a third or subsequent offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.***

***(4) Minimum sentences of imprisonment or community labor under subsection (2)(c) of this section shall not be suspended, probated, or subject to conditional discharge or other form of early release.***

***(5) When sentencing persons convicted of violating subsection (3)(a) of this section, a fine shall be assessed and that fine shall not be suspended, except that it is subject to the alternative of community service as provided in subsection (3)(a). If a person other than the person convicted of violating KRS 235.240(2) dies or has suffered physical injury, as defined in KRS 500.080, as a result of the convicted person's operation of a motorboat or vessel in violation of KRS 235.240(2), the sentence shall include imprisonment as specified in subsection (3)(b) of this section and that portion of the sentence shall not be suspended, probated, or subject to conditional discharge or other form of early release.***

SECTION 3. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

***(1) Subject to the five (5) year limitation in KRS 235.990(3) in determining offenses and punishments under this chapter wherein prior offenses are involved, offenses committed prior to the effective date of this Act, shall be given the same weight and effect as offenses committed after that date and this section shall be deemed to be retroactive with regard thereto.***

SECTION 4. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

***(1) (a) No period of labor shall be less than four (4) hours to quality for satisfaction of a sentence;***

***(b) A "day" shall mean eight (8) hours of labor;***

***(c) A "month" shall mean twenty (20) days of labor;***

***(d) Periods of labor four (4) hours or longer may be cumulated to meet the requirements under this section.***

*(2) Labor shall be done for public agencies, nonprofit corporations or eleemosynary institutions only.*

*(3) Any agency for whom a person works shall agree to supervise the person and report to the court:*

*(a) The hours worked;*

*(b) The quality of the work; and*

*(c) The nature of the work.*

*(4) An agency may refuse to accept persons under this program or to accept any particular person or persons sent by the court.*

*(5) The court shall maintain a list of agencies willing to accept and supervise persons sentenced under this program.*

*(6) The court may contract, at no cost to the state or participant, with any public agency or nonprofit corporation or eleemosynary institution for the supervision of persons in the program.*

*(7) No work performed under this program shall be deemed employment for any purpose nor shall be the person performing the work be considered an employee.*

*(8) Failure to complete the community labor ordered by the court, to perform diligently at that labor, or to pay the fee required shall constitute contempt of court; and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the community labor.*

SECTION 5. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

*(1) Any term of imprisonment for a second offender under KRS 235.990 shall, at the order of the court, be served on weekends or other times as may preserve the employment or education of the offender. No individual period of incarceration shall be less than twenty-four (24) hours.*

*(2) Children shall be detained pursuant to the applicable provisions of KRS Chapters 600 to 645.*

SECTION 6. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

*(1) In addition to any other penalty prescribed by law for violation of subsection (3)(b) of KRS 235.990, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:*

*(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.*

*(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.*

*(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the one (1) year period.*

*(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court; and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.*

*(2) In addition to any other penalty prescribed by law for a violation of subsection (3)(c) of KRS 235.990, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:*

*(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems. The program may be an inpatient or residential type program.*

*(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.*

*(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year.*

***(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court; and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.***

***(3) Costs of treatment or education programs which are paid from the service fee established by KRS 235.247 or from state or federal funds or any combination thereof shall be deducted from the amount which the defendant shall pay.***

SECTION 7. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

***(1) All persons convicted of violation of KRS 235.240(2) shall be sentenced to pay a service fee of one hundred fifty dollars ($150), which shall be in addition to all other penalties authorized by law.***

***(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.***

***(3) The service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, and treatment and education programs authorized by this chapter.***

SECTION 8. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

***(1) Law enforcement agencies may record, on film or video tape or by other visual and audible means, field sobriety tests administered at the scene of an arrest for violation of KRS 235.240(2) or such tests at a police station, jail, or other suitable facility subject to the following conditions:***

***(a) The testing is recorded in its entirety;***

***(b) The entire recording is shown in court, unless the defendant waives the showing of any portions not offered by the prosecution;***

***(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth;***

***(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense;***

***(e) Recordings shall be used for official purposes only and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court. Recordings shall otherwise be considered as confidential records;***

***(f) After all appeals have been exhausted, the recordings shall, upon the order of a District Court, be destroyed; and***

***(g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.***

SECTION 9. A NEW SECTION OF KRS 235.990 TO 235.998 IS CREATED TO READ AS FOLLOWS:

***Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, but in amounts consistent with this chapter, and the response to nonpayment of fines shall be governed by KRS 534.060.***

**HB 747,** AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) Effective August 1, ***1990*** [~~1988~~], ***a*** [~~the~~] member ***of the Kentucky State Police Retirement System***

may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and ***five-tenths percent (2.5%)*** [~~forty-one hundredths percent (2.41%)~~] of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978 or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.505 to 16.652, a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

**HB 751**, AN ACT relating to Commercial Motor Vehicles and Driver's License.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 281A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***(1) It is the purpose of this Act to implement the Federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570) and reduce or prevent commercial vehicle accidents, fatalities and injuries by:***

***(a) Permitting commercial drivers to hold only one (1) license;***

***(b) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses as herein defined; and***

***(c) Strengthening commercial driver licensing and testing standards.***

***(2) This Act shall be liberally construed to promote the public health, safety and welfare. As applied to commercial drivers, to the extent this Act conflicts with general driver licensing provisions this Act prevails. If this Act is silent, general driver licensing provisions shall apply.***

***(3) The issuance of a Class D, E or M license as set forth in Section 17 of this Act shall be in accordance with the general driver licensing statutes in KRS Chapter 186 and shall be subject to the fees as set forth in KRS 186.531 in addition to any other fee required by statute.***

***(4) Any administrative action taken pursuant to KRS Chapter 281A against a Class A, B, or C license shall be in addition to any administrative action taken against a Class D, E, or M license imposed under any other applicable statute.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) The Transportation Cabinet shall, as expeditiously as practicable, develop and maintain an on-line automated computer record keeping system having as a minimum, the capabilities and functions described or needed as set forth in this chapter. The cabinet shall be responsible for acquisition and installation of such equipment or services as are necessary to carry out the provisions of this chapter.***

***(2) The Transportation Cabinet shall have the full responsibility and authority for the day-to-day administration of the automated system. All state government agencies, political subdivisions and other***

***agencies including circuit clerks or third party testing agencies affected by this system shall cooperate with the Transportation Cabinet in the use and implementation of the automated system.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***The Transportation Cabinet shall have all necessary power and authority to promulgate regulations and institute those programs that are reasonably necessary to carry out the provisions of this Act. Any other state agency vested with a specific responsibility shall have the necessary power and authority to promulgate regulations to reasonably carry out the provisions of this chapter.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) "Alcohol" means:***

***(a) Beer, ale, port or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;***

***(b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or***

***(c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or***

***(d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine or any distilled spirits including, but not limited to, ethanol, methanol, propanol and isopropanol.***

***(2) "Alcohol concentration" means:***

***(a) The number of grams of alcohol per one hundred (100) milliliters of blood; or***

***(b) The number of grams of alcohol per two hundred ten (210) liters of breath; or***

***(c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.***

***(3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.***

***(4) "Commercial driver's license" or CDL means a license issued to an individual in accordance with the requirements of this Act or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual which authorizes the individual to drive any class of commercial motor vehicle.***

***(5) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.***

***(6) "Commercial driver's instruction permit" means a permit issued pursuant to Section 12 of this Act.***

***(7) "Commercial motor vehicle" or CMV means a motor vehicle or combination motor vehicle which is:***

***(a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet regulations;***

***(b) Designed to transport sixteen (16) or more passengers, including the driver;***

***(c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or***

***(d) Any other vehicle which is required by cabinet regulation to be operated by a licensed commercial driver.***

***(8) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet pursuant to regulation. It shall also include those substances defined or listed in KRS Chapter 218A.***

***(9) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal,***

an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

(10) "Disqualification" means a withdrawal, cancellation, suspension or revocation of the privilege to drive a commercial motor vehicle.

(11) "Drive" means to drive, operate or be in physical control of a motor vehicle.

(12) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver license.

(13) "Driver's license" means a license issued by a state or foreign jurisdiction to an individual which authorizes the individual to drive a motor vehicle.

(14) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.

(15) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(16) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for at least one (1) year in a correctional facility.

(17) "Foreign" means outside the fifty (50) United States and the District of Columbia.

(18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit.

(19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle, or the vehicle's registered gross weight, whichever is greater.

(20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.

(21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.

(22) "Moped" shall have the same meaning as in KRS 186.010(5).

(23) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include any vehicle, machine, tractor, trailer, or semi-trailers operated exclusively on a rail.

(24) "NDR" means the national driver register.

(25) "Nonresident CDL" means a commercial driver's license issued by a state to a driver who resides in a foreign jurisdiction or a driver's license issued to a driver by a foreign jurisdiction which license qualifies as a CDL.

(26) "Out of service order" means a temporary prohibition against driving a commercial motor vehicle.

(27) "Resident" means a person who has his actual or habitual place of abode in this state.

(28) "School bus" means a school bus as defined in KRS 156.153.

(29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

(a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;

(b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(c) Improper or erratic traffic lane changes;

*(d) Following the vehicle ahead too closely;*

*(e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident; or*

*(f) Any other violation of state or local law relating to motor vehicle traffic control, other than a parking violation, which the cabinet has determined by regulation to be serious.*

*(30) "State" means a state of the United States and the District of Columbia.*

*(31) "State police" means the Department of State Police of the Commonwealth of Kentucky.*

*(32) "Traffic accident" means any motor vehicle accident from which a conviction of a moving traffic law violation has resulted.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*The provisions of this Act shall not apply to:*

*(1) Drivers of firefighting and other emergency equipment;*

*(2) Drivers of military vehicles if those persons are:*

*(a) Military personnel in uniform;*

*(b) Operating the vehicles in pursuit of a military purpose; and*

*(c) Properly licensed by the military;*

*(3) Drivers of vehicles which are:*

*(a) Used exclusively in farm-to-market agricultural transportation;*

*(b) Operated in private carriage; and*

*(c) Used within one hundred fifty (150) miles of the point of origin; and*

*(4) Drivers of vehicles which:*

*(a) Are designed as temporary living quarters for recreational, camping, or travel use; and*

*(b) Operate on their own motor power or are mounted on or drawn by anther vehicle.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*No person who drives a commercial motor vehicle may have more than one (1) driver's license.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*(1) Any driver who holds a commercial driver's license or who is required to hold a commercial driver's license shall within thirty (30) days in the manner specified by the cabinet:*

*(a) Notify the cabinet of any conviction of a state law or local ordinance, relating to motor vehicle traffic control, other than a parking violation, committed in another state or jurisdiction; and*

*(b) Notify his employer in writing of any conviction of a state law or local ordinance, relating to motor vehicle traffic control other than a parking violation, committed in any state or jurisdiction.*

*(2) Any driver whose commercial driver's license is suspended, revoked, or cancelled by any state, or who loses the privilege to drive a motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or a driver who is subject to an out of service order, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.*

*(3) Any person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten (10) years preceding the date of application whenever the information is available:*

*(a) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;*

***(b) The dates during which the applicant drove for each employer;***

***(c) The reason for leaving that employer; and***

***(d) A certification that all information furnished is true and complete.***

***(4) An employer may require an applicant to provide information additional to that required by subsection (3) of this section.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Each employer shall require the applicant to provide the information specified in Section 7 of this Act. He shall inform the applicant that the information provided may be used or the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.***

***(2) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial vehicle during any period in which the driver:***

***(a) Has had his commercial driver's license suspended, revoked, or cancelled by any state;***

***(b) Is currently disqualified from driving a commercial vehicle;***

***(c) Is subject to an out of service order in any state;***

***(d) Has more than one (1) driver's license; or***

***(e) Does not currently hold a valid commercial driver's license.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Except when driving under a commercial driver's instruction permit and accompanied by the holder of commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle on the highways of this state unless the person holds a valid commercial driver's license with applicable endorsements valid for the vehicle he is driving.***

***(2) No person shall drive a commercial motor vehicle on the highways of this state while his driving privilege for a commercial or noncommercial motor vehicle is suspended, revoked, or cancelled, or while he is subject to a disqualification, or in violation of an out of service order.***

***(3) The licensee shall have in his immediate possession at all times when operating a motor vehicle his commercial driver's license, and shall display the license upon demand to a circuit clerk, a license examiner, a peace officer, a state police officer, or an inspector or officer of the Department of Vehicle Regulation. It shall be a defense to a violator of this subsection if the person so charged produces in court a commercial driver's license, issued to him before his arrest or violation and which was valid at that time.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any other provision of law to the contrary, the Transportation Cabinet shall upon request furnish full information regarding the commercial driving history record of any person to the following:***

***(a) The driver licensing administrator, court official or police agency of this or any other state or foreign jurisdiction, requesting that information;***

***(b) Any employer or prospective employer;***

***(c) The commercial driver; or***

***(d) Any other person so established by administrative regulation of the cabinet.***

***The cabinet may charge a fee of five dollars ($5) for this service.***

***(2) The driving history record of a commercial driver shall include, but not be limited to, violations and convictions for any moving traffic violation, traffic accident record, and all out-of-state moving traffic violations and convictions.***

***(3) If a person legally entitled to a commercial driving history releases information concerning the driving history record of a commercial driver, no state agency, employee, or agent shall be held liable.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***Within ten (10) days after receiving a report from a Kentucky court of a conviction of a commercial driver whose license has been issued by another jurisdiction for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the Transportation Cabinet shall notify the driver licensing authority in the other jurisdiction of the conviction.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) A commercial driver's instruction permit may be issued to an individual twenty-one (21) years and older who holds a valid automobile Class D driver's license and who has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven. Instruction permits shall be class specific.***

***(2) A commercial driver's instruction permit may be issued to an individual eighteen (18) years of age who holds a valid automobile Class D driver's license, who has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven, if the individual only drives a commercial motor vehicle in intrastate commerce and does not drive a school bus or a vehicle hauling hazardous material. The instruction permit shall be class specific and shall contain an "I" restriction noting that the commercial driver is limited to Kentucky intrastate commerce.***

***(3) A commercial driver's instruction permit shall not be issued for a period to exceed six (6) months. Only one (1) renewal or reissuance may be granted within two (2) year period for the same class of vehicle. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle on the highways of Kentucky only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven and who occupies a seat beside the permit holder for the purpose of giving instruction in driving the commercial motor vehicle.***

***(4) A commercial driver's instruction permit shall contain in addition to any other information which the cabinet deems necessary those requirements set forth in Section 17 of this Act and shall include a color photo of the permit holder.***

SECTION 13. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) No person shall be issued a commercial driver's license unless that person is a resident of this state, holds a valid operator's license issued pursuant to KRS 186.412 and has passed the knowledge and skills tests for driving a commercial motor vehicle which comply with minimum federal standards established by federal regulation enumerated in Title 49, Code of Federal Regulations, Part 383, as adopted by the cabinet, and has satisfied all other safety requirements including those requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted as set forth in Section 16 of this Act. The skills test may be waived only in those circumstances where the applicant has compiled with Section 20 of this Act.***

***(2) A commercial driver's license, or commercial driver's instruction permit shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license or driving privilege is suspended, revoked or cancelled in any state or jurisdiction.***

***(3) A commercial driver's license shall not be issued to a person who has a commercial driver's license issued by any other state or foreign jurisdiction unless the person first surrenders all such licenses, which shall be returned to the issuing jurisdiction for cancellation.***

***(4) To ensure that an applicant for a commercial driver's license or instruction permit complies with the requirements of subsections (2) and (3) of this section, commercial driver's license information system and national driver register shall be contacted prior to the issuance of the license or permit.***

SECTION 14. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) The application for a commercial driver's license or commercial driver's instruction permit, shall include the following information:***

***(a) The full name, including nicknames, and present resident address of the applicant. If the applicant's mailing address is different from the resident address, the mailing address shall also be included:***

***(b) A physical description of the applicant including sex, height, weight, eye color, and race;***

***(c) The applicant's date of birth;***

***(d) The applicant's Social Security number;***

*(e) The applicant's signature;*

*(f) Certifications including those required by Title 49, Code of Federal Regulations, Part 383.71, paragraph (a) as adopted by the cabinet;*

*(g) A consent to release driving record information;*

*(h) A valid class D operator's license issued pursuant to KRS 186.412;*

*(i) A birth certificate if the applicant does not hold a valid operator's license at the time of application; and*

*(j) Any other information required by the cabinet.*

*(2) The cabinet or state police may require any other information needed in order to process the application.*

*(3) When the holder of a commercial driver's license changes his name or residence, this information shall be reported to the cabinet within ten (10) days. The holder of a Class A, B, or C license shall make an application for a duplicate license within thirty (30) days of changing his name or address.*

*(4) Any person whose commercial driver's license has been legitimately lost or destroyed shall make an application for a duplicate. He shall furnish by affidavit satisfactory proof substantiating the loss or destruction.*

*(5) A person who has been a resident of this state for thirty (30) days shall not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.*

*(6) Any person who knowingly falsifies information or certifications required to obtain a commercial driver's license, a commercial driver's license permit or a duplicate commercial driver's license subsequent to an administrative hearing shall be subject to suspension, revocation, or cancellation of his commercial driver's license for a period of at least sixty (60) consecutive days.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*(1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides. The application shall be in the form prescribed by Section 14 of this Act as provided by the cabinet. Each time a person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his commercial driver's license he shall update his application and submit the appropriate fee to the circuit clerk.*

*(2) Each application for a commercial driver's license shall be accompanied by a fee to be set by regulation of the cabinet not to exceed forty dollars ($40). The fee amount shall be based on the class or type of license, endorsement, restriction or tests to be taken.*

*(3) Each application for a commercial driver's instruction permit shall be accompanied by a fee to be set by regulation of the cabinet not to exceed thirty-five dollars ($35).*

*(4) Each application for a change or addition in class or type of license, endorsement or restriction shall be accompanied by a fee to be set by regulation of the cabinet not to exceed fifteen dollars ($15) for each change or addition.*

*(5) Each application for a duplicate commercial driver's license shall be accompanied by a fee to be set by regulation of the cabinet not to exceed ten dollars ($10).*

*(6) Each application for a commercial driver's license renewal shall be accompanied by a fee to be set by regulation of the cabinet not to exceed thirty-five dollars ($35).*

*(7) Each application for a transfer of a commercial driver's license shall be accompanied by a fee to be set by regulation of the cabinet not to exceed sixty dollars ($60).*

*(8) Any person who applies for a Class B or C commercial driver's license with an "S" restriction shall not be assessed or charged a fee pursuant to this chapter.*

*(9) All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.*

*(10) All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this Act. The accounts shall not lapse but shall be continuing from year to year.*

*(11) All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of State Police, except a fifty cent (50) issuance fee shall be allocated for the benefit of the circuit clerk who issues a commercial driver's license permit and a three dollar ($3) issuance fee shall be allocated for the benefit of the circuit clerk who issues a commercial driver's license.*

*(12) Any applicant who seeks reinstatement of his commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars ($50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of Section 16 of this Act. This fee shall not be required if his commercial driving privilege was withdrawn only as a result of the withdrawal of his privilege to drive a noncommercial motor vehicle.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*(1) The state police shall be responsible for administering both the knowledge and skills test required by Section 13 of this Act.*

*(2) The state police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the state police but not less than ten (10) days after the applicant has filed his application.*

*(3) Notwithstanding subsection (1) of this section, the state police may authorize a person, including an agency of this or another state, an employer, a private driver training facility, a private institution, or a department, agency or instrumentality of local government, to administer the knowledge or skills test specified by this section, provided:*

*(a) The test is the same which would otherwise be administered by the state; and*

*(b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.*

*(4) No applicant shall be permitted to take the knowledge or skills test for a particular class vehicle more than twice within any six (6) month period.*

*(5) Any applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall submit to the knowledge and vision tests. Any applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*(1) The commercial driver's license shall be marked "commercial driver's license" or "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include, but is not limited to, the following information:*

*(a) The name and present resident address of the licensee;*

*(b) The licensee's color photograph;*

*(c) A physical description of the licensee including sex, height, weight, race and eye color;*

*(d) The licensee's date of birth;*

*(e) The licensee's Social Security number;*

*(f) The licensee's signature;*

*(g) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;*

*(h) The name of this state;*

*(i) The dates between which the license is valid; and*

*(j) Any other information required by the cabinet.*

*(2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles which require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the state police.*

*(a) Classifications:*

*1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.*

*2. Class B - Any single vehicle with a gross vehicle weight rating of less than twenty-six thousand and one (26,001) pounds or more, and any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.*

*3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:*

*a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or*

*b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by the cabinet.*

*4. Class D - All other vehicles not listed in any other class.*

*5. Class E - Moped only.*

*6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.*

*(b) Endorsements:*

*1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.*

*2. "T" - Authorizes operation of double trailers.*

*3. "P" - Authorizes operation of vehicles carrying passengers.*

*4. "N" - Authorizes operation of tank vehicles.*

*5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.*

*6. "R" - Authorizes operation of all other endorsements not otherwise specified.*

*(c) Restrictions:*

*1. "K" - Restricts the driver to operation of vehicles not equipped with airbrakes.*

*2. I - Restricts the driver to Kentucky intrastate commerce driving.*

*3. "S" - Restricts the driver to school buses only.*

*4. "1-13" - Other restrictions.*

*(3) Within ten (10) days after issuing a commercial driver license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.*

*(4) A commercial driver's license issued pursuant to this Act shall expire in four (4) years unless the license was issued pursuant to the terms of Section 20 of this Act, or unless the license was issued to a person under the age of twenty-one (21).*

*(5) No one under the age of twenty-one (21) shall be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. No commercial driver with an "I" restriction shall drive a commercial motor vehicle in interstate commerce, drive a school bus or transport hazardous materials.*

*(6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.*

*(7) If the automated computer system is non-functional, the circuit clerk may issue a temporary commercial driver's license permit to an applicant for renewal or transfer of a commercial driver's license to be valid for not more than thirty (30) days to a person who has satisfied all the requirements for the issuance of a commercial driver's license. Upon return to the circuit clerk's office, the person shall not be charged any additional fee for the issuance of his commercial driver's license provided he returns prior to the expiration of the thirty (30) day temporary commercial driver's license permit. No person shall be issued more than one (1) temporary commercial driver's license permit.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*(1) Every person applying for renewal or transfer of a commercial driver's license from another issuing jurisdiction, shall complete an application as required by Section 14 of this Act, providing updated information, testing and required certifications.*

*(2) If the applicant for a renewal or transfer commercial driver's license or if the applicant seeks to add an endorsement, has a hazardous materials endorsement and applies to retain the endorsement, he shall provide the required medical certificate and the knowledge test for a hazardous materials endorsement shall be taken again unless he provides proof that he has taken and passed the hazardous materials knowledge test within the preceding two (2) years.*

*(3) Every person applying to add an endorsement to his existing commercial driver's license shall complete an application as required by Section 14 of this Act, providing updated information and certifications. If the endorsement originally would have required a special knowledge or skills test, he shall successfully complete the test or tests prior to the endorsement being added to his commercial driver's license.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

*(1) Any person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:*

*(a) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance;*

*(b) Driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths percent (0.04%) or more;*

*(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person; or*

*(d) Using a commercial motor vehicle in the commission of any felony listed in KRS 186.560.*

*(2) A person shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall not apply if one (1) of the convictions was for a violation committed prior to the date of application for a commercial driver's license instruction permit.*

*(3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person shall be disqualified for a period of three (3) years.*

*(4) Notwithstanding any other provisions of law, no period of suspension, revocation or disqualification imposed under the provisions of this chapter may be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.*

*(5) A person shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.*

*(6) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.*

*(7) A person shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.*

*(8) The cabinet may deny any person a commercial driver's license or may suspend, revoke or cancel his commercial driving privilege, subject to a hearing when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.*

*(9) After suspending, revoking, or cancelling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action forthwith. After determining that the commercial driver's privilege should be suspended, revoked, or cancelled, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Beginning on January 1, 1991, and effective until April 1, 1992, any driver of a commercial vehicle who meets the requirements of subsection (2) of this section, may apply to the circuit clerk of the county in which he resides and upon satisfactory completion of a vision and knowledge test shall qualify to be issued a commercial driver's license.***

***(2) An applicant for a commercial driver's license shall:***

***(a) Provide proof that he is a resident of the Commonwealth of Kentucky and currently holds a valid Kentucky operator's license;***

***(b) Provide proof that he has been regularly employed as a driver of vehicles for the previous two (2) years of the type or class of commercial vehicle for which he seeks a commercial driver's license.***

***(c) Have a driving record free of any license suspensions, revocations or cancellations for the preceding two (2) years;***

***(d) Have been free of any disqualifying offenses for the prior two (2) years; and***

***(e) Be twenty-one (21) years of age or older unless the applicant seeks a commercial driver's license with an "I" restriction.***

***(3) All licenses issued pursuant to this section shall expire in the birth month and year of the applicant's regular operator's license issued pursuant to KRS 186.412. All fees shall be prorated based upon the number of months and years the commercial driver's license is valid.***

SECTION 21. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any other provision of this chapter, a person shall not drive a commercial motor vehicle within this state while having any measurable or detectable amount of alcohol or other controlled substances in his system.***

***(2) A person who drives a commercial motor vehicle within this state while having any detectable amount of alcohol or controlled substance in his system or who refuses to submit to the test required in Section 22 of this Act, shall be placed out of service for twenty-four (24) hours.***

***(3) Any person who drives a commercial motor vehicle within this state with an alcohol concentration of four hundredths percent (0.04%) or more shall be deemed to be operating a vehicle under the influence.***

***(4) Any person who drives a commercial motor vehicle within this state with an alcohol concentration of four hundredths percent (0.04%) or more in addition to any other sanctions which may be imposed under this Act shall be disqualified from driving a commercial motor vehicle under Section 19 of this Act.***

SECTION 22. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) A person who drives a commercial motor vehicle within this state shall be deemed to have given his consent to take a test or tests of his blood, breath, or urine for the purpose of determining alcohol concentration, or the presence of other drugs.***

***(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver has reasonable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in his system.***

***(3) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.***

***(4) A person requested to submit to a test as provided in subsection (1) of this section shall be warned by the law enforcement officer requesting the test, that a refusal to submit to the test shall result in that person being immediately placed out of service for a period of twenty-four (24) hours and being disqualified from operating a commercial motor vehicle for the period specified under Section 19 of this Act.***

***(5) If a driver of a commercial motor vehicle refuses upon the request of a law enforcement officer to submit to a test as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given but the law enforcement officer shall submit a report signed under the penalty of perjury about the refusal to the cabinet.***

***(6) Upon the receipt of the report of the law enforcement officer stating that the officer had reason to believe that the driver was operating a commercial motor vehicle and that the driver refused to submit to a test of his blood, breath, or urine for the purpose of determining that person's alcohol concentration or the presence of other drugs, the cabinet shall immediately serve notice upon the person to appear before the secretary of the Transportation Cabinet or his duly authorized agent and show cause why his license to operate a commercial motor vehicle should not be revoked, or if the person is a nonresident his privilege to operate a commercial motor vehicle within this state should not be revoked; or if the person is a resident without a commercial motor vehicle license or commercial motor vehicle permit to operate a commercial motor vehicle in this state why that person should not be denied the issuance of a commercial motor vehicle license or commercial motor vehicle permit. The notice serve by the cabinet shall be in writing and mailed to the person by certified mail to the last known resident address of the person.***

***(7) The hearing required in subsection (6) of this section shall be scheduled as soon as possible. The hearing examiner appointed by the secretary of the Transportation Cabinet may administer oaths, issue subpoenas for the attendance of witnesses, or issue subpoenas for the telephonic testimony of witness. After having reviewed all the relevant evidence the hearing examiner shall issue a report and recommended order to the secretary or his designee. The secretary or his designee shall within ten (10) days after the completion of the hearing, order either a one (1) year suspension of the commercial motor vehicle license if this is the first offense, a suspension for life if it is the second offense, or an order taking no action and setting forth the reasons. The cabinet shall immediately notify the driver of the secretary's ruling by mailing to him a copy of the report and recommended order and the final order by certified mail.***

***(8) If the person fails to attend the hearing without good cause shown, the cabinet shall forthwith revoke the person's commercial motor vehicle driver's license or privilege to operate a commercial motor vehicle or deny issuance of a commercial motor vehicle driver's instruction permit or commercial motor vehicle driver's license.***

***(9) If the cabinet suspends the commercial motor vehicle driver's license, the person whose commercial motor vehicle driver's license or commercial motor vehicle driver's instruction permit to drive or nonresident operating privilege has been suspended, or to whom a commercial motor vehicle driver's license or commercial motor vehicle driver's instruction permit is denied, under the provisions of this Act, may file a petition in the Circuit Court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued.***

SECTION 23. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which shall ensure an accurate determination of alcohol concentration. The tests may be administered in the field to a person suspected of operating a commercial vehicle in violation of Section 21 of this Act before the person is arrested. These tests may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law nor in any administrative proceeding for a license suspension. This preliminary test shall not be in lieu of any requested blood, urine or breath test required by any other statute.***

***(2) Law enforcement agencies may record on film or video tape or by other visual or audible means field sobriety tests administered at the scene of an arrest for violation of Section 21 of this Act or such tests at a police station, jail, or other suitable facility.***

SECTION 24. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this state if the person has a valid commercial driver's license or commercial driver's license instruction permit issued by any state in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's license, if the person's driving privilege is not suspended, revoked, or cancelled; and if the person is not disqualified from driving a commercial motor vehicle or subject to an out of service order.***

***(2) The Commonwealth of Kentucky shall give all out of state convictions full faith and credit and treat them for sanctioning purposes under this Act as if they occurred in this state. Except as otherwise provided, when in this Act reference is made to an offense which is a violation of a provision of this chapter or other Kentucky state law, the reference shall be deemed to include offenses under any local ordinance, any federal law, any law or local ordinance of another state substantially similar to any provision of the Kentucky Revised Statutes.***

SECTION 25. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***(1) The cabinet shall acknowledge a nonresident commercial driver's license issued to a resident of***

***a foreign jurisdiction if the United States secretary of transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction meet the testing standards established in Title 49, Code Federal Regulations, Part 383. The word "nonresident" shall appear on the face of the nonresident commercial driver's license.***

***(2) Notwithstanding any other provision upon proper application, the cabinet may issue a nonresident commercial driver's license provided all necessary requirements have been met.***

***(3) An applicant shall surrender any nonresident commercial driver's license issued by another licensing jurisdiction prior to the Commonwealth issuing a nonresident commercial driver's license. The Commonwealth of Kentucky shall determine the practical capability of revoking, suspending, cancelling the nonresident commercial driver's license and disqualifying that person with the same conditions applicable to the commercial driver's license issued to a resident of this state.***

### SECTION 26. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***The Commonwealth may enter into or make agreements, arrangements, or declarations to carry out the provisions of this Act.***

### SECTION 27. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

***As used in KRS 186.400 to 186.640, a driver's license shall mean an operator's license issued pursuant to KRS 186.412 and a commercial driver's license shall mean a license issued pursuant to KRS Chapter 281A.***

### Section 28. KRS 186.018 is amended to read as follows:

For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the transportation cabinet shall be used to ascertain the driving history record of each person ***who*** [~~which~~] is licensed to operate a motor vehicle within the Commonwealth[~~; provided, however, that the files of the transportation cabinet shall not contain a record of any moving traffic conviction of any person which has occurred prior to June 21, 1974~~]. The Transportation Cabinet shall destroy, and shall not maintain records of moving traffic convictions which are more than five (5) years old. ***Notwithstanding, for any licensee who now holds, who has applied for or has ever held a Class A, B, or C license issued pursuant to Section 17 of this Act, the cabinet shall keep violation records indefinitely*** [~~, or, which shall have occurred prior to June 21, 1974, whichever period of time is lesser~~].

### Section 29. KRS 186.412 is amended to read as follows:

(1) Every person seeking ***an operator's*** [~~a~~] license, or a renewal of ***an operator's*** [~~a~~] license for the operation of a motor vehicle, motorcycle, ***or*** moped or an identification card shall apply in person to the Circuit Court clerk of the county in which the applicant resides and shall make application upon a form furnished by the Transportation Cabinet. The application form shall contain and shall require the full and legal name and signature, date of birth, Social Security number, sex, present resident address of the applicant and briefly describe the applicant. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. The license shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21)***; "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under twenty-one (21)***.

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a color photo identification card may apply in person to the circuit clerk in the county in which he resides. When requested by the clerk, a person shall bring a birth certificate and Social Security card. The Social Security card shall contain his signature. Every applicant shall make oath

to the circuit clerk as to the truthfulness of the statements contained on the form. The identification card shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21).

(6) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(7) The cabinet shall provide on each license to operate motor vehicles or motorcycles issued a space for the licensed driver's blood type; a space for a medical insignia to be stamped with the proper insignia by the Circuit Court clerk, if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and a statement whereby the owner of the license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195. In addition, if the motor vehicle operator denotes a physical ailment or drug allergy on the license, he may apply for and shall receive, for a fee of one dollar ($1), a medical insignia decal which may be affixed to the lower left side of the front windshield of a motor vehicle. The applicant shall remit a fee of one dollar ($1) to the circuit clerk, at which time the clerk shall issue the insignia.

***(8) An operator's license as issued pursuant to this section shall be designated a Class D license.***

***(9) No person shall have more than one (1) license.***

Section 30. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person ***an operator's*** [~~a~~] license or may suspend the ***operator's*** license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, whenever the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(2) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation or withdrawal of their driving privileges, under provisions of this section, a hearing. Upon determining that such action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. Such hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the cabinet.

(3) The cabinet may suspend the ***operator's*** license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky ***operator's*** license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident.

***(4)*** The Transportation Cabinet is forbidden from suspending or revoking ***an*** [~~a motor vehicle or motorcycle~~] operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. ***This section*** [~~and shall not apply to other motor vehicle offenses, nor~~] shall ***not*** [~~this section~~] apply to ***a commercial driver's*** [~~any new applicant for a Kentucky motor vehicle operator's~~] license.

***(5)***[~~(4)~~] Each ***operator's*** license which has been cancelled, suspended or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension or revocation the license may be returned to the licensee ***after he has complied with all requirements for the issuance or reinstatement of his driving privilege.***

Section 31. KRS 189.011 is amended to read as follows:

(1) As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

(a) "Authorized emergency vehicle" shall mean any vehicle designated as such by KRS 189.910.

(b) "Wrecker" shall mean a motor vehicle on which a wrecking crane and other equipment suitable for motor vehicle wrecker service has been permanently mounted.

(2) Provided, however, That the regulations in reference to lights shall not apply to common carrier motor vehicles whose equipment is regulated by the rules of the interstate commerce commission.

***(3) As used in this chapter, a driver's license shall mean an operator's license issued pursuant to KRS 186.412 and a commercial driver's license means a license issued pursuant to KRS Chapter 281A.***

Section 32. KRS 189.540 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall adopt administrative regulations to govern the design and operation of all Kentucky school buses. The board shall, with the advice and aid of the Kentucky State Police ***and the Transportation Cabinet,*** enforce the administrative regulations governing the operation of all school buses whether owned by a school district or privately contracted. The regulations covering the operation shall by reference be made a part of any contract with a school district. Every school district and private contractor referred to under this subsection shall be subject to those regulations.

(2) Any employe of any school district who violates any of the administrative regulations in any contract executed on behalf of a school district shall be subject to removal from office. Any person operating a school bus under contract with a school district who fails to comply with any of the administrative regulations shall be guilty of breach of contract and the contract shall be canceled after proper notice and a hearing by the responsible officers of such school district.

***(3) Any person who operates a school bus shall be required to possess a commercial driver's license issued pursuant to Section 17 of this Act.***

Section 33. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 ***or Section 21 of this Act*** need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 ***or Section 21 of this Act.***

(2) Any peace officer may arrest without warrant when he has probable cause to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, former spouse, parent, grandparent, child, stepchild or, if said person is a party of an unmarried couple which has a child in common, the other party of the couple. Within twelve (12) hours

following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

SECTION 34. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***The Transportation Cabinet may adopt in whole or in part those federally mandated requirements set forth in Title 49, Code of Federal Regulations, Part 383, notwithstanding the fact that the provisions may conflict with other provisions of this Act. The authority granted in this section shall expire January 1, 1992.***

Section 35. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231 for first offense only, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, [~~186.600,~~] 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 36. Sections 4, 14, 15, 16, and 20 of this Act shall become effective on January 1, 1991.

Section 37. Sections 5, 7, 8, 9, 10, 12, 13, 17, 18, 19, 21, 22, 23, 24, and 25 of this Act shall become effective on July 1, 1991, notwithstanding the Transportation Cabinet may delay implementation until the automated commercial records system is on-line and operational.

SECTION 38. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

***This Act shall be known as the "Kentucky Commercial Driver's License Act."***

Section 39. The following KRS sections are repealed:

281.740 Accident reports.

186.600 Age limit for drivers of school buses and public passenger-carrying vehicles.

Section 40. The following KRS section is repealed effective July 1, 1991:

281.726 Certification of drivers and chauffeurs — Requirements — Duties of circuit clerks — Cost of certificate — Revocation or suspension of certificate — Federal regulation.

The Committee Amendment No. 1 to **HB 751** is as follows:

Amend printed copy of **HB 751** on page 4, line 9, after the word "***breath***" by deleting the words "***; or***" and inserting a "." in lieu thereof.

On page 4, lines 10 and 11, by deleting said lines in their entirety.

On page 9, lines 4 through 7, by deleting said lines in their entirety and inserting in lieu thereof the following language: "***(f) Any conviction of an offense which requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.***"

On page 21, line 4, by deleting the line in its entirety and inserting the following language "***be assessed a fee not to exceed twenty dollars ($20)***".

On page 22, after line 6, by inserting the following language: "***(13) Any person who qualifies for a commercial driver's license under the provisions of Section 20 of this Act shall pay a fee not to exceed sixty-two dollars ($62).***"

On page 23, line 11, after the word "***shall***" by deleting the words "***submit to the knowledge and vision***" and inserting the words "***pay the reinstatement fee as prescribed by Section 15(12) of this Act and shall receive his commercial driver's license with all endorsement and restrictions which were in effect at the time of suspension.***"

On page 23, line 12, by deleting the word "***tests.***"

On page 33, line 25, after the "." by inserting the following language: "***A urine test shall be a test of last resort under the provisions of this section. If a breath test proves negative, test results shall be permitted to be used as evidence in court as it relates to alcohol concentration in the driver's system.***"

The Committee Amendment No. 2 to **HB 751** is as follows:

Amend printed copy of **HB 751** on page 21, line 4, after the "." by inserting the following language: "***Any person who applies for a Class B or C commercial driver's license with a "P" restriction who is employed by a mass transit authority created under the provisions of KRS Chapter 96A shall be assessed or charged a fee not to exceed twenty dollars ($20).***"

**HB 766**, AN ACT relating to motor vehicle operator's licenses.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***Each court convicting any person thirteen (13) years of age but less than eighteen (18) years of age of a violation of KRS Chapter 218A shall immediately notify the Transportation Cabinet of the conviction.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

***Each court convicting any person thirteen (13) years of age but less than eighteen (18) years of age of a violation of KRS 222.202 shall immediately notify the Transportation Cabinet of the conviction.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

***Each court convicting any person thirteen (13) years of age but less than eighteen (18) years of age of a violation of KRS 235.240 shall immediately notify the Transportation Cabinet of the conviction.***

Section 4. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) ***A violation of KRS 189.520(1)*** [~~Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability~~];

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085***; and***

***(j) Conviction of any person under the age of eighteen (18) years of any alcohol or drug related offense listed in KRS Chapter 218A, KRS 222.202, or KRS 235.240.***

(2) If the person convicted of any offense named in subsection (1) of this section ***or KRS 189A.010*** is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) ***(a)*** The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute***; and***

***(b) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a first violation of subsection (1)(j) of this section shall be for a period of one (1) year. Revocation or denial periods for subsequent offenses shall be for two (2) years.***

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of ***any of the offenses listed in subsection (1)*** [~~said offense~~], ***shall not revoke the person's operator's license if the*** [~~that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said~~] person has enrolled in ***an alcohol or substance abuse education or treatment program approved by the Cabinet for Human Resources. If the*** [~~such driver's education program as the cabinet shall require. In the event said~~] person fails to satisfactorily complete ***the alcohol or substance abuse education or treatment*** said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke ***his*** [~~said~~] operator's license for a period of six (6) months.

(6) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the ***alcohol or substance abuse*** [~~driver's~~] education ***or treatment*** program established by this section, or (at the option of the defendant) a licensed comprehensive care center ***approved by the Cabinet for Human Resources*** [~~education program~~], and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The ***Human Resources*** Cabinet shall permit driver's education programs approved by the ***Human Resources*** Cabinet to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(7) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the Transportation Cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(8) In order to secure the reinstatement of a license ***or the privilege*** to operate a motor vehicle [~~or motorcycle restored~~] following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is ***or privilege to operate a motor vehicle*** suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(9) Any person or legal entity that seeks to offer, conduct or operate ***an alcohol or substance abuse*** [~~a driver's~~] education ***or treatment*** program as provided in this section shall submit sufficient documentation to the ***Human Resources*** Cabinet in writing that ***the*** [~~such~~] program is needed in the geographical area that

is proposed to be served. The ***Human Resources*** Cabinet shall promulgate administrative regulations which specify what constitutes need for ***the*** [~~such~~] programs in a given geographical area. The ***Human Resources*** Cabinet shall determine whether ***the*** [~~such~~] need is shown to exist and shall establish by administrative regulation an appeals procedure. The provisions of this subsection shall not apply to any ***alcohol or substance abuse*** [~~driver's~~] education ***or treatment*** program operating with the approval of the ***Transportation*** Cabinet prior to July 15, 1986.

Section 5. The following KRS section is repealed:

218A.991 Revocation or denial of operator's license.

The Committee Amendment No. 1 to **HB 766** is as follows:

Amend printed copy of **HB 766** on page 1, line 3, by deleting the words "***thirteen (13)***" and inserting the words "***fourteen (14)***" in lieu thereof.

On page 1, line 9, by deleting the words "***thirteen (13)***" and inserting the words "***fourteen (14)***" in lieu thereof.

On page 1, line 15, by deleting the words "***thirteen (13)***" and inserting the words "***fourteen (14)***" in lieu thereof.

**HB 868,** AN ACT relating to the Transportation Cabinet.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 176.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means Department of Highways; [~~and~~]

(2) "Roads" includes highways, bridges and bridge approaches***; and***

***(3) "Sham or front company" means any business established or in existence which falsely represents that business to be a disadvantaged business enterprise operated or operating for the purpose of obtaining funds, contracts, subcontracts, services or other benefits from any local government agency of this Commonwealth, or state government agency of this Commonwealth or from any federal government agency.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

***Any person who fraudulently establishes or assists in establishing, or operates or assists in operating, or conspires to establish or operate a sham or front company, as defined in this Act, shall be guilty of a Class D felony.***

**HJR 60,** A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge on Kentucky Highway 164 across Casey Creek the Skaggs-Ledford-Wyatt Bridge.

WHEREAS, the Skaggs, Ledford and Wyatt families are well known to the area of Roaring Springs in Trigg County, Mr. Skaggs having lived in the area for 54 years and the Ledford and Wyatt families dating back three generations; and

WHEREAS, Mr. Skaggs is a prominent figure in the community while the Ledford and Wyatt families own property near the bridge and donated fill material to aid in the construction of this bridge; and

WHEREAS, the people for whom this bridge is to be named have farmed the land in the area for decades, as well as being active in the community affairs of Roaring Spring through service in communities churches, as volunteer firefighters and other endeavors too numerous to mention; and

WHEREAS, the naming of the bridge on Highway 164 across Casey Creek would serve as a fitting tribute to those who have contributed to the community of Roaring Springs so well, for so long;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Secretary of Transportation be directed to name the bridge on Kentucky Highway 164 over Casey Creek the Skaggs-Ledford-Wyatt Bridge.

Section 2. That a copy of this resolution be transmitted to the Secretary of Transportation, the Trigg County Fiscal Court and the Skaggs, Ledford and Wyatt families of Roaring Springs, Kentucky.

**HJR 164**, A JOINT RESOLUTION creating a Highway Study Committee to research and investigate the needs facing the various transportation systems in Kentucky and making an appropriation therefor.

WHEREAS, the total transportation needs and financing study of the Commonwealth of Kentucky was last completed in 1975 and much has changed at the federal, state, and local levels since the completion of that research; and

WHEREAS, the development of a complete system of transportation, including highways, mass transit, air, rail, and water, is essential for the health, welfare, and economic well-being of all Kentuckians; and

WHEREAS, the lack of equity involved with the distribution of highway construction projects throughout the state, coupled with the inability to form a secure, long-term construction plan have combined to restrict the state's progress in improving land transportation systems; and

WHEREAS, data collected by various organizations and agencies in the Commonwealth establishes a discrepancy of some 7,000 miles in the local road system, evidencing the fact that current information is woefully inadequate; and

WHEREAS, the higher education facilities in the Commonwealth could easily become involved in such a study and by doing so develop information systems and models for updating projections on a continual basis to be utilized by future policymakers in the executive and legislative branches of government;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) The Highway Study Committee shall be established, which shall be attached to the Legislative Research Commission for administrative purposes and shall be composed of the following members:

(a) Four members of the House of Representatives and three members of the Senate;

(b) Three members, appointed by the Speaker of the House of Representatives and the President Pro Tem of the Senate, one of whom shall be knowledgeable in the areas of both rail and water transportation, another shall be knowledgeable in the area of air transportation, and the other shall be knowledgeable in the area of land transportation; and

(c) Seven members, one from each congressional district, appointed by the Governor, representing the public and private sectors.

(2) Any vacancy shall be filled by the appointing authority who appointed the person causing the vacancy. All initial appointments shall be made within one calendar month from the effective date of this Joint Resolution. The committee shall have its initial meeting no later than October 1, 1990. Co-chairmen of the committee shall be appointed by the Legislative Research Commission from the membership.

(3) The committee membership shall receive necessary subsistence and travel expenses.

(4) The committee shall conduct meetings throughout the state for the purpose of studying the following:

(a) Present and future highway funding needs;

(b) Equable allocation of highway funds throughout the state;

(c) The economic impact of the highway system on the state; and

(d) Short and long range funding solutions.

Section 2. (1) The committee shall also undertake a comprehensive study to identify and evaluate all possible and practicable options and alternatives for the future financing and support of the State Road Fund and the Commonwealth's system of transportation including highway, mass transit, airports, and air services, railway services, and transportation by water.

(2) The Secretary of the Cabinet for Finance and Administration shall cooperate with and assist the committee in the conduct of such study, including the supplying of all relevant and pertinent information and reports as may be requested by the committee. The Secretary of Transportation and the Secretary of Revenue shall supply the Secretary of Finance and Administration with the information needed by the committee.

(3) The Legislative Research Commission is authorized to supplement costs of such study by accepting federal funds or support from any source and that upon recommendation of the committee, the Legislative

Research Commission be empowered to engage by contract, or otherwise, the personnel necessary to conduct such study.

(4) The committee shall make every effort to ensure such study is conducted by assistance of in-state expertise within the appropriate higher education institutions of the Commonwealth and that all information systems and models are made available for the purpose of the study.

Section 3. (1) The committee shall submit to the 1992 General Assembly, the study, along with a final report, ranking proposed transportation projects for the entire state in order of priority, along with a ranking of the needs within each area development district. In a separate prioritized report the committee shall submit the highway construction projects proposed for each highway district and a ranking of the projects for the entire state. Upon deliverance of the report to the 1992 General Assembly, the committee shall be dissolved.

(2) The Director of the Legislative Research Commission is authorized to supply such staff and resources as he deems necessary to successfully accomplish the tasks of the needs study and the committee.

Section 4. There is hereby appropriated to the Legislative Research Commission from the state road fund, $160,000; from the county road aid program, $112,000; from the municipal road fund program, $48,000; and from the state general fund, $160,000 for fiscal year 1990-91, for the sole purpose of conducting the study directed by this Resolution. Any unexpended balance remaining at the close of fiscal year 1990-91 shall not lapse but shall continue into the 1991-92 fiscal year.

The Committee Amendment No. 1 to **HJR 164** is as follows:

Amend printed copy of **HJR 164** on page 2, line 13, by deleting the word "and".

On page 2, line 16, after the word "sectors" by deleting the "." and inserting the following: "; and".

On page 2, after line 16, by inserting the following language:

"(d) The secretary of the Transportation Cabinet and the secretary of the Revenue Cabinet."

**HJR 185,** A JOINT RESOLUTION establishing a highway construction plan.

WHEREAS, the statutes of the Commonwealth of Kentucky require a highway construction plan to be presented which details those projects which will be presented for construction by the Department of Highways in future years; and

WHEREAS the statutes which establish the highway preconstruction plan recognize the importance of planning and the assurance that once projects are initiated that they are completed; and

WHEREAS, in previous years shifting of projects has diminished the confidence of the General Assembly and the public that roads will be constructed in a timely fashion; and

WHEREAS, the first major step in assuring road projects are planned and built in a conscientious manner is the development of a preconstruction plan; and

WHEREAS, the General Assembly acknowledges that the current preconstruction plan is woefully out of balance in relation to estimated receipts used in highway construction; and

WHEREAS, the General Assembly in adoption of this resolution is committed to work with the Department of Highways to develop a workable construction and preconstruction plan in future years;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the following projects be included in the 1992-1996 highway construction plan as established in KRS 176.420 through 176.460.

Section 2. That the Secretary of Transportation shall work in the conjunction with the General Assembly to move each of these projects in the the biennial highway construction plan as expeditiously as possible while ensuring that both plans be balanced with respect to revenue which may be available to the Depatment of Highways.

Section 3. That a copy of this resolution be transmitted to the Governor of Kentucky and the Secretary of the Kentucky Transportation Cabinet.

The Committee Substitute to **HJR 185** is as follows:

**HJR 185,** A JOINT RESOLUTION establishing a highway construction plan.

WHEREAS, the statutes of the Commonwealth of Kentucky require a highway construction plan to be presented which details those projects which will be presented for construction by the Department of Highways in future years; and

WHEREAS, the statutes which establish the highway preconstruction plan recognize the importance of planning and the assurance that once projects are initiated that they are completed; and

WHEREAS, in previous years shifting of projects has diminished the confidence of the General Assembly and the public that roads will be constructed in a timely fashion; and

WHEREAS, the first major step in assuring road projects are planned and built in a conscientious manner is the development of a preconstruction plan; and

WHEREAS, the General Assembly in adoption of this resolution is committed to work with the Department of Highways to develop a balanced and workable construction and preconstruction plan in future years;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the following projects shall be the 1992-1996 highway preconstruction plan as established in KRS 176.420 through 176.460:

(1) Projects included in the highway construction plan with project phases not scheduled for completion after Fiscal Year 1992, as follows:

Appalachian Development

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| PIKE | 12 | 0026400 | DESIGN | 1,250,000 | 0 | 0 | 0 |
| PIKE | 12 | 0030905 | CONSTRUCTION | 13,420,000 | 0 | 0 | 0 |
| PIKE | 12 | 0031001 | CONSTRUCTION | 0 | 0 | 0 | 25,000,000 |
| PIKE | 12 | 0031001 | RIGHT OF WAY | 0 | 11,000,000 | 0 | 0 |
| PIKE | 12 | 0031001 | UTILITIES | 0 | 0 | 600,000 | 0 |
| | | | | 14,670,000 | 11,000,000 | 600,000 | 25,000,000 |

Bridge Acceleration

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| KENTON | 06 | 0030000 | CONSTRUCTION | 30,000,000 | 0 | 0 | 0 |
| | | | | 30,000,000 | 0 | 0 | 0 |

Bridge-On System

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| ANDERSON | 07 | 0100700 | CONSTRUCTION | 245,000 | 0 | 0 | 0 |
| ANDERSON | 07 | 0100800 | CONSTRUCTION | 0 | 380,000 | 0 | 0 |
| ANDERSON | 07 | 0100800 | RIGHT OF WAY | 17,000 | 0 | 0 | 0 |
| ANDERSON | 07 | 0100800 | UTILITIES | 5,000 | 0 | 0 | 0 |
| BALLARD | 01 | 0102900 | CONSTRUCTION | 690,000 | 0 | 0 | 0 |
| BALLARD | 01 | 0103400 | CONSTRUCTION | 0 | 0 | 9,250,000 | 0 |
| BALLARD | 01 | 0103400 | DESIGN | 555,000 | 0 | 0 | 0 |
| BATH | 09 | 0100300 | CONSTRUCTION | 0 | 225,000 | 0 | 0 |
| BATH | 09 | 0100300 | RIGHT OF WAY | 1,000 | 0 | 0 | 0 |
| BATH | 09 | 0100400 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| BATH | 09 | 0100400 | RIGHT OF WAY | 7,000 | 0 | 0 | 0 |
| BATH | 09 | 0100400 | UTILITIES | 30,000 | 0 | 0 | 0 |
| BATH | 09 | 0100500 | CONSTRUCTION | 0 | 260,000 | 0 | 0 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BATH | 09 | 0100500 | RIGHT OF WAY | 20,000 | 0 | 0 | 0 |
| BATH | 09 | 0100500 | UTILITIES | 10,000 | 0 | 0 | 0 |
| BATH | 09 | 0100600 | CONSTRUCTION | 0 | 340,000 | 0 | 0 |
| BELL | 11 | 0010600 | CONSTRUCTION | 0 | 0 | 0 | 475,000 |
| BELL | 11 | 0010600 | RIGHT OF WAY | 0 | 22,000 | 0 | 0 |
| BELL | 11 | 0010600 | UTILITIES | 0 | 85,000 | 0 | 0 |
| BOONE | 06 | 0013300 | CONSTRUCTION | 0 | 2,500,000 | 0 | 0 |
| BOONE | 06 | 0013300 | RIGHT OF WAY | 790,000 | 0 | 0 | 0 |
| BOONE | 06 | 0013300 | UTILITIES | 390,000 | 0 | 0 | 0 |
| BOURBON | 07 | 0100000 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| BOURBON | 07 | 0100000 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| BOURBON | 07 | 0100000 | UTILITIES | 10,000 | 0 | 0 | 0 |
| BOURBON | 07 | 0100300 | CONSTRUCTION | 0 | 375,000 | 0 | 0 |
| BOURBON | 07 | 0100300 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| BOURBON | 07 | 0100300 | UTILITIES | 25,000 | 0 | 0 | 0 |
| BOYD | 09 | 0100200 | CONSTRUCTION | 0 | 250,000 | 0 | 0 |
| BOYD | 09 | 0100200 | RIGHT OF WAY | 11,000 | 0 | 0 | 0 |
| BOYD | 09 | 0100200 | UTILITIES | 20,000 | 0 | 0 | 0 |
| BRECKINRIDGE | 04 | 0100100 | CONSTRUCTION | 0 | 400,000 | 0 | 0 |
| BULLITT | 05 | 0025200 | DESIGN | 0 | 150,000 | 0 | 0 |
| CALLOWAY | 01 | 0103200 | CONSTRUCTION | 0 | 357,000 | 0 | 0 |
| CALLOWAY | 01 | 0103200 | RIGHT OF WAY | 20,000 | 0 | 0 | 0 |
| CALLOWAY | 01 | 0103200 | UTILITIES | 156,000 | 0 | 0 | 0 |
| CAMPBELL | 06 | 0013600 | CONSTRUCTION | 450,000 | 0 | 0 | 0 |
| CLARK | 07 | 0013200 | CONSTRUCTION | 280,000 | 0 | 0 | 0 |
| CLARK | 07 | 0014800 | CONSTRUCTION | 80,000 | 0 | 0 | 0 |
| CLARK | 07 | 0014900 | CONSTRUCTION | 0 | 409,000 | 0 | 0 |
| CLARK | 07 | 0014900 | RIGHT OF WAY | 49,000 | 0 | 0 | 0 |
| CLARK | 07 | 0014900 | UTILITIES | 19,000 | 0 | 0 | 0 |
| CLARK | 07 | 0015000 | CONSTRUCTION | 386,000 | 0 | 0 | 0 |
| CLARK | 07 | 0100400 | CONSTRUCTION | 225,000 | 0 | 0 | 0 |
| CLARK | 07 | 0100500 | CONSTRUCTION | 350,000 | 0 | 0 | 0 |
| CLARK | 07 | 0100600 | CONSTRUCTION | 385,000 | 0 | 0 | 0 |
| CRITTENDEN | 01 | 0103100 | CONSTRUCTION | 0 | 543,000 | 0 | 0 |
| CRITTENDEN | 01 | 0103100 | RIGHT OF WAY | 24,000 | 0 | 0 | 0 |
| CRITTENDEN | 01 | 0103100 | UTILITIES | 130,000 | 0 | 0 | 0 |
| ELLIOTT | 09 | 0011700 | CONSTRUCTION | 0 | 4,650,000 | 0 | 0 |
| ESTILL | 10 | 0100800 | CONSTRUCTION | 0 | 0 | 5,000,000 | 0 |
| ESTILL | 10 | 0100800 | RIGHT OF WAY | 1,000,000 | 0 | 0 | 0 |
| ESTILL | 10 | 0100800 | UTILITIES | 0 | 1,000,000 | 0 | 0 |
| FAYETTE | 07 | 0015300 | CONSTRUCTION | 0 | 143,000 | 0 | 0 |
| FAYETTE | 07 | 0015300 | RIGHT OF WAY | 75,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0015300 | UTILITIES | 4,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0015400 | CONSTRUCTION | 0 | 0 | 0 | 180,000 |
| FAYETTE | 07 | 0015400 | RIGHT OF WAY | 0 | 0 | 48,000 | 0 |
| FAYETTE | 07 | 0015400 | UTILITIES | 0 | 0 | 5,000 | 0 |
| FLEMING | 09 | 0011900 | CONSTRUCTION | 395,000 | 0 | 0 | 0 |
| FLEMING | 09 | 0100700 | CONSTRUCTION | 0 | 580,000 | 0 | 0 |
| FLEMING | 09 | 0100700 | RIGHT OF WAY | 35,000 | 0 | 0 | 0 |
| FLEMING | 09 | 0100700 | UTILITIES | 50,000 | 0 | 0 | 0 |
| FRANKLIN | 05 | 0012500 | CONSTRUCTION | 0 | 587,000 | 0 | 0 |
| GRAVES | 01 | 0102200 | CONSTRUCTION | 566,000 | 0 | 0 | 0 |
| GRAVES | 01 | 0103000 | CONSTRUCTION | 283,000 | 0 | 0 | 0 |
| GRAVES | 01 | 0103300 | CONSTRUCTION | 0 | 360,000 | 0 | 0 |
| GRAVES | 01 | 0103300 | RIGHT OF WAY | 12,000 | 0 | 0 | 0 |
| GRAVES | 01 | 0103300 | UTILITIES | 24,000 | 0 | 0 | 0 |
| GREENUP | 09 | 0100100 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| GREENUP | 09 | 0100100 | RIGHT OF WAY | 15,000 | 0 | 0 | 0 |
| GREENUP | 09 | 0100100 | UTILITIES | 15,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0100000 | CONSTRUCTION | 0 | 195,000 | 0 | 0 |
| HART | 04 | 0101500 | CONSTRUCTION | 0 | 0 | 0 | 3,000,000 |
| HENDERSON | 02 | 0100000 | CONSTRUCTION | 0 | 1,800,000 | 0 | 0 |
| HENRY | 05 | 0012800 | CONSTRUCTION | 0 | 0 | 0 | 1,130,000 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| HENRY | 05 | 0012800 | RIGHT OF WAY | 0 | 25,000 | 0 | 0 |
| HENRY | 05 | 0012800 | UTILITIES | 0 | 20,000 | 0 | 0 |
| HOPKINS | 02 | 0100900 | CONSTRUCTION | 0 | 0 | 0 | 726,000 |
| HOPKINS | 02 | 0100900 | DESIGN | 83,000 | 0 | 0 | 0 |
| HOPKINS | 02 | 0100900 | RIGHT OF WAY | 0 | 0 | 20,000 | 0 |
| HOPKINS | 02 | 0100900 | UTILITIES | 0 | 0 | 86,000 | 0 |
| JEFFERSON | 05 | 0013000 | CONSTRUCTION | 0 | 0 | 0 | 100,000 |
| JEFFERSON | 05 | 0013000 | RIGHT OF WAY | 0 | 0 | 5,000 | 0 |
| JEFFERSON | 05 | 0013000 | UTILITIES | 0 | 0 | 5,000 | 0 |
| JEFFERSON | 05 | 0013400 | CONSTRUCTION | 625,000 | 0 | 0 | 0 |
| JOHNSON | 12 | 0012000 | CONSTRUCTION | 0 | 0 | 0 | 200,000 |
| JOHNSON | 12 | 0012000 | RIGHT OF WAY | 0 | 0 | 15,000 | 0 |
| JOHNSON | 12 | 0012000 | UTILITIES | 0 | 0 | 15,000 | 0 |
| JOHNSON | 12 | 0100500 | CONSTRUCTION | 0 | 0 | 150,000 | 0 |
| JOHNSON | 12 | 0100500 | RIGHT OF WAY | 0 | 45,000 | 0 | 0 |
| JOHNSON | 12 | 0100500 | UTILITIES | 0 | 25,000 | 0 | 0 |
| KENTON | 06 | 0013200 | CONSTRUCTION | 683,000 | 0 | 0 | 0 |
| MADISON | 07 | 0015200 | CONSTRUCTION | 610,000 | 0 | 0 | 0 |
| MADISON | 07 | 0100200 | CONSTRUCTION | 0 | 400,000 | 0 | 0 |
| MADISON | 07 | 0100200 | RIGHT OF WAY | 25,000 | 0 | 0 | 0 |
| MADISON | 07 | 0100200 | UTILITIES | 10,000 | 0 | 0 | 0 |
| MASON | 09 | 0020702 | CONSTRUCTION | 0 | 0 | 20,000,000 | 0 |
| MASON | 09 | 0100800 | CONSTRUCTION | 0 | 525,000 | 0 | 0 |
| MASON | 09 | 0100800 | RIGHT OF WAY | 1,000 | 0 | 0 | 0 |
| MASON | 09 | 0100800 | UTILITIES | 150,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0102000 | CONSTRUCTION | 743,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0102100 | CONSTRUCTION | 181,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0102800 | CONSTRUCTION | 0 | 283,000 | 0 | 0 |
| MCLEAN | 02 | 0100600 | CONSTRUCTION | 5,000,000 | 0 | 0 | 0 |
| MCLEAN | 02 | 0100700 | CONSTRUCTION | 0 | 0 | 1,950,000 | 0 |
| MONROE | 03 | 0100200 | CONSTRUCTION | 0 | 0 | 0 | 400,000 |
| MONROE | 03 | 0100200 | RIGHT OF WAY | 0 | 10,000 | 0 | 0 |
| MONROE | 03 | 0100200 | UTILITIES | 0 | 15,000 | 0 | 0 |
| MONTGOMERY | 07 | 0013100 | CONSTRUCTION | 243,000 | 0 | 0 | 0 |
| MUHLENBERG | 02 | 0100100 | CONSTRUCTION | 0 | 250,000 | 0 | 0 |
| MUHLENBERG | 02 | 0100100 | RIGHT OF WAY | 15,000 | 0 | 0 | 0 |
| MUHLENBERG | 02 | 0100100 | UTILITIES | 10,000 | 0 | 0 | 0 |
| NELSON | 04 | 0100200 | CONSTRUCTION | 0 | 325,000 | 0 | 0 |
| OHIO | 02 | 0100200 | CONSTRUCTION | 0 | 400,000 | 0 | 0 |
| OHIO | 02 | 0100200 | RIGHT OF WAY | 15,000 | 0 | 0 | 0 |
| OHIO | 02 | 0100200 | UTILITIES | 25,000 | 0 | 0 | 0 |
| OWEN | 06 | 0013000 | CONSTRUCTION | 0 | 0 | 0 | 1,460,000 |
| PERRY | 10 | 0010601 | CONSTRUCTION | 487,000 | 0 | 0 | 0 |
| PERRY | 10 | 0100000 | CONSTRUCTION | 0 | 275,000 | 0 | 0 |
| PERRY | 10 | 0100000 | RIGHT OF WAY | 125,000 | 0 | 0 | 0 |
| PERRY | 10 | 0100000 | UTILITIES | 50,000 | 0 | 0 | 0 |
| PERRY | 10 | 0100300 | CONSTRUCTION | 0 | 0 | 300,000 | 0 |
| PERRY | 10 | 0100300 | DESIGN | 100,000 | 0 | 0 | 0 |
| PERRY | 10 | 0100300 | RIGHT OF WAY | 0 | 200,000 | 0 | 0 |
| PERRY | 10 | 0100300 | UTILITIES | 0 | 50,000 | 0 | 0 |
| PIKE | 12 | 0100300 | CONSTRUCTION | 180,000 | 0 | 0 | 0 |
| PIKE | 12 | 0100400 | CONSTRUCTION | 0 | 0 | 0 | 350,000 |
| PIKE | 12 | 0100400 | RIGHT OF WAY | 0 | 100,000 | 0 | 0 |
| PIKE | 12 | 0100400 | UTILITIES | 0 | 50,000 | 0 | 0 |
| POWELL | 10 | 0100100 | CONSTRUCTION | 0 | 0 | 225,000 | 0 |
| POWELL | 10 | 0100100 | RIGHT OF WAY | 0 | 50,000 | 0 | 0 |
| POWELL | 10 | 0100100 | UTILITIES | 0 | 20,000 | 0 | 0 |
| PULASKI | 08 | 0013800 | CONSTRUCTION | 0 | 0 | 0 | 15,000,000 |
| PULASKI | 08 | 0013800 | DESIGN | 2,000,000 | 0 | 0 | 0 |
| PULASKI | 08 | 0013800 | RIGHT OF WAY | 0 | 0 | 1,000,000 | 0 |
| PULASKI | 08 | 0013800 | UTILITIES | 0 | 0 | 900,000 | 0 |
| PULASKI | 08 | 0025700 | DESIGN | 0 | 0 | 1,200,000 | 0 |
| PULASKI | 08 | 0025700 | RIGHT OF WAY | 0 | 0 | 0 | 1,000,000 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| PULASKI | 08 | 0025700 | UTILITIES | 0 | 0 | 0 | 600,000 |
| ROWAN | 09 | 0100000 | CONSTRUCTION | 200,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0015900 | CONSTRUCTION | 0 | 0 | 0 | 750,000 |
| SCOTT | 07 | 0015900 | DESIGN | 0 | 100,000 | 0 | 0 |
| SCOTT | 07 | 0015900 | RIGHT OF WAY | 0 | 0 | 75,000 | 0 |
| SCOTT | 07 | 0015900 | UTILITIES | 0 | 0 | 40,000 | 0 |
| WASHINGTON | 04 | 0010800 | CONSTRUCTION | 0 | 500,000 | 0 | 0 |
| WASHINGTON | 04 | 0010800 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| WASHINGTON | 04 | 0010800 | UTILITIES | 25,000 | 0 | 0 | 0 |
| WHITLEY | 11 | 0100000 | CONSTRUCTION | 272,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100200 | CONSTRUCTION | 0 | 0 | 0 | 300,000 |
| WOLFE | 10 | 0100200 | DESIGN | 75,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100200 | RIGHT OF WAY | 0 | 50,000 | 0 | 0 |
| WOLFE | 10 | 0100200 | UTILITIES | 0 | 20,000 | 0 | 0 |
| WOLFE | 10 | 0100400 | CONSTRUCTION | 0 | 0 | 0 | 230,000 |
| WOLFE | 10 | 0100400 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100400 | UTILITIES | 20,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100500 | CONSTRUCTION | 0 | 0 | 0 | 230,000 |
| WOLFE | 10 | 0100500 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100500 | UTILITIES | 20,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100600 | CONSTRUCTION | 0 | 0 | 0 | 230,000 |
| WOLFE | 10 | 0100600 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100600 | UTILITIES | 20,000 | 0 | 0 | 0 |
| WOLFE | 10 | 0100700 | CONSTRUCTION | 0 | 0 | 0 | 300,000 |
| WOLFE | 10 | 0100700 | RIGHT OF WAY | 0 | 100,000 | 0 | 0 |
| WOLFE | 10 | 0100700 | UTILITIES | 0 | 40,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0002700 | CONSTRUCTION | 1,500,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0002800 | CONSTRUCTION | 0 | 1,500,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0002900 | CONSTRUCTION | 0 | 0 | 1,500,000 | 0 |
| Z(VARIOUS) | 99 | 0003000 | CONSTRUCTION | 0 | 0 | 0 | 1,500,000 |
| Z(VARIOUS) | 99 | 0008800 | CONSTRUCTION | 0 | 0 | 0 | 7,692,000 |
|  |  |  |  | 21,697,000 | 21,589,000 | 41,789,000 | 35,853,000 |

### Bridge-Off System

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| ADAIR | 08 | 0024301 | CONSTRUCTION | 1,000,000 | 0 | 0 | 0 |
| BELL | 11 | 0100800 | CONSTRUCTION | 0 | 400,000 | 0 | 0 |
| BELL | 11 | 0100800 | RIGHT OF WAY | 70,000 | 0 | 0 | 0 |
| BELL | 11 | 0100800 | UTILITIES | 10,000 | 0 | 0 | 0 |
| BUTLER | 03 | 0017400 | CONSTRUCTION | 0 | 386,000 | 0 | 0 |
| BUTLER | 03 | 0017400 | RIGHT OF WAY | 11,000 | 0 | 0 | 0 |
| BUTLER | 03 | 0101000 | CONSTRUCTION | 125,000 | 0 | 0 | 0 |
| BUTLER | 03 | 0101500 | CONSTRUCTION | 0 | 180,000 | 0 | 0 |
| BUTLER | 03 | 0101500 | RIGHT OF WAY | 5,000 | 0 | 0 | 0 |
| BUTLER | 03 | 0101500 | UTILITIES | 5,000 | 0 | 0 | 0 |
| BUTLER | 03 | 0101700 | CONSTRUCTION | 0 | 150,000 | 0 | 0 |
| BUTLER | 03 | 0101700 | RIGHT OF WAY | 5,000 | 0 | 0 | 0 |
| BUTLER | 03 | 0101700 | UTILITIES | 3,000 | 0 | 0 | 0 |
| CARTER | 09 | 0101200 | CONSTRUCTION | 750,000 | 0 | 0 | 0 |
| CARTER | 09 | 0101500 | CONSTRUCTION | 0 | 0 | 0 | 750,000 |
| CARTER | 09 | 0101500 | DESIGN | 60,000 | 0 | 0 | 0 |
| CARTER | 09 | 0101500 | RIGHT OF WAY | 0 | 0 | 20,000 | 0 |
| CARTER | 09 | 0101500 | UTILITIES | 0 | 0 | 10,000 | 0 |
| CLAY | 11 | 0100300 | CONSTRUCTION | 90,000 | 0 | 0 | 0 |
| EDMONSON | 03 | 0101100 | CONSTRUCTION | 275,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0101300 | CONSTRUCTION | 0 | 100,000 | 0 | 0 |
| FAYETTE | 07 | 0101300 | RIGHT OF WAY | 15,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0101300 | UTILITIES | 10,000 | 0 | 0 | 0 |
| FLEMING | 09 | 0101400 | CONSTRUCTION | 0 | 300,000 | 0 | 0 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| FLEMING | 09 | 0101400 | RIGHT OF WAY | 15,000 | 0 | 0 | 0 |
| FLEMING | 09 | 0101400 | UTILITIES | 15,000 | 0 | 0 | 0 |
| FLOYD | 12 | 0101700 | CONSTRUCTION | 150,000 | 0 | 0 | 0 |
| GRAVES | 01 | 0103700 | CONSTRUCTION | 75,000 | 0 | 0 | 0 |
| GRAVES | 01 | 0104200 | CONSTRUCTION | 0 | 140,000 | 0 | 0 |
| GRAVES | 01 | 0104200 | RIGHT OF WAY | 13,000 | 0 | 0 | 0 |
| GRAVES | 01 | 0104200 | UTILITIES | 47,000 | 0 | 0 | 0 |
| GREEN | 04 | 0101200 | CONSTRUCTION | 0 | 350,000 | 0 | 0 |
| GREEN | 04 | 0101200 | RIGHT OF WAY | 20,000 | 0 | 0 | 0 |
| GREEN | 04 | 0101200 | UTILITIES | 20,000 | 0 | 0 | 0 |
| GREENUP | 09 | 0101300 | CONSTRUCTION | 0 | 350,000 | 0 | 0 |
| GREENUP | 09 | 0101300 | RIGHT OF WAY | 10,000 | 0 | 0 | 0 |
| HANCOCK | 02 | 0019600 | CONSTRUCTION | 296,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0016600 | CONSTRUCTION | 0 | 405,000 | 0 | 0 |
| HARDIN | 04 | 0016600 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0016600 | UTILITIES | 25,000 | 0 | 0 | 0 |
| HARLAN | 11 | 0100600 | CONSTRUCTION | 0 | 250,000 | 0 | 0 |
| HARLAN | 11 | 0100600 | RIGHT OF WAY | 18,000 | 0 | 0 | 0 |
| HARLAN | 11 | 0100600 | UTILITIES | 10,000 | 0 | 0 | 0 |
| HARLAN | 11 | 0100700 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| HARLAN | 11 | 0100700 | RIGHT OF WAY | 5,000 | 0 | 0 | 0 |
| HARLAN | 11 | 0100700 | UTILITIES | 6,000 | 0 | 0 | 0 |
| HENDERSON | 02 | 0019500 | CONSTRUCTION | 0 | 0 | 0 | 122,000 |
| HENDERSON | 02 | 0019500 | RIGHT OF WAY | 0 | 0 | 10,000 | 0 |
| HENDERSON | 02 | 0019500 | UTILITIES | 0 | 0 | 9,000 | 0 |
| JEFFERSON | 05 | 0012900 | CONSTRUCTION | 0 | 0 | 0 | 884,000 |
| JEFFERSON | 05 | 0012900 | RIGHT OF WAY | 0 | 85,000 | 0 | 0 |
| JEFFERSON | 05 | 0012900 | UTILITIES | 0 | 25,000 | 0 | 0 |
| JEFFERSON | 05 | 0017900 | CONSTRUCTION | 0 | 154,000 | 0 | 0 |
| JEFFERSON | 05 | 0017900 | RIGHT OF WAY | 10,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0017900 | UTILITIES | 20,000 | 0 | 0 | 0 |
| KNOX | 11 | 0015700 | CONSTRUCTION | 0 | 0 | 962,000 | 0 |
| LAWRENCE | 12 | 0101900 | CONSTRUCTION | 0 | 250,000 | 0 | 0 |
| LAWRENCE | 12 | 0101900 | RIGHT OF WAY | 40,000 | 0 | 0 | 0 |
| LAWRENCE | 12 | 0101900 | UTILITIES | 25,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0017500 | CONSTRUCTION | 240,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0017600 | CONSTRUCTION | 0 | 108,000 | 0 | 0 |
| LOGAN | 03 | 0017600 | RIGHT OF WAY | 11,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0101300 | CONSTRUCTION | 0 | 108,000 | 0 | 0 |
| LOGAN | 03 | 0101300 | RIGHT OF WAY | 7,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0101300 | UTILITIES | 5,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0101600 | CONSTRUCTION | 0 | 140,000 | 0 | 0 |
| LOGAN | 03 | 0101600 | RIGHT OF WAY | 5,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0101600 | UTILITIES | 5,000 | 0 | 0 | 0 |
| MARSHALL | 01 | 0104000 | CONSTRUCTION | 91,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0103900 | CONSTRUCTION | 206,000 | 0 | 0 | 0 |
| MEADE | 04 | 0016000 | CONSTRUCTION | 281,000 | 0 | 0 | 0 |
| MERCER | 07 | 0100900 | CONSTRUCTION | 250,000 | 0 | 0 | 0 |
| MERCER | 07 | 0101100 | CONSTRUCTION | 0 | 275,000 | 0 | 0 |
| MERCER | 07 | 0101100 | RIGHT OF WAY | 20,000 | 0 | 0 | 0 |
| MERCER | 07 | 0101100 | UTILITIES | 15,000 | 0 | 0 | 0 |
| MERCER | 07 | 0101200 | CONSTRUCTION | 0 | 250,000 | 0 | 0 |
| MERCER | 07 | 0101200 | RIGHT OF WAY | 25,000 | 0 | 0 | 0 |
| MERCER | 07 | 0101200 | UTILITIES | 10,000 | 0 | 0 | 0 |
| MERCER | 07 | 0101400 | CONSTRUCTION | 0 | 0 | 0 | 550,000 |
| MERCER | 07 | 0101400 | DESIGN | 60,000 | 0 | 0 | 0 |
| MERCER | 07 | 0101400 | RIGHT OF WAY | 0 | 0 | 25,000 | 0 |
| MERCER | 07 | 0101400 | UTILITIES | 0 | 0 | 15,000 | 0 |
| METCALFE | 03 | 0017800 | CONSTRUCTION | 339,000 | 0 | 0 | 0 |
| OLDHAM | 05 | 0018100 | CONSTRUCTION | 0 | 78,000 | 0 | 0 |
| OLDHAM | 05 | 0018100 | RIGHT OF WAY | 2,000 | 0 | 0 | 0 |
| OLDHAM | 05 | 0018200 | CONSTRUCTION | 0 | 0 | 0 | 89,000 |
| OLDHAM | 05 | 0018200 | DESIGN | 0 | 40,000 | 0 | 0 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| OLDHAM | 05 | 0018200 | RIGHT OF WAY | 0 | 0 | 2,000 | 0 |
| OLDHAM | 05 | 0018200 | UTILITIES | 0 | 0 | 2,000 | 0 |
| PIKE | 12 | 0015200 | CONSTRUCTION | 0 | 340,000 | 0 | 0 |
| PIKE | 12 | 0015200 | RIGHT OF WAY | 120,000 | 0 | 0 | 0 |
| PIKE | 12 | 0015200 | UTILITIES | 15,000 | 0 | 0 | 0 |
| PIKE | 12 | 0015300 | CONSTRUCTION | 280,000 | 0 | 0 | 0 |
| PIKE | 12 | 0090900 | CONSTRUCTION | 0 | 0 | 250,000 | 0 |
| PIKE | 12 | 0090900 | RIGHT OF WAY | 0 | 25,000 | 0 | 0 |
| PIKE | 12 | 0090900 | UTILITIES | 0 | 25,000 | 0 | 0 |
| PIKE | 12 | 0101600 | CONSTRUCTION | 200,000 | 0 | 0 | 0 |
| PIKE | 12 | 0101600 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| PIKE | 12 | 0101600 | UTILITIES | 50,000 | 0 | 0 | 0 |
| PIKE | 12 | 0101800 | CONSTRUCTION | 150,000 | 0 | 0 | 0 |
| POWELL | 10 | 0100900 | CONSTRUCTION | 0 | 150,000 | 0 | 0 |
| POWELL | 10 | 0100900 | RIGHT OF WAY | 25,000 | 0 | 0 | 0 |
| POWELL | 10 | 0100900 | UTILITIES | 10,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0015600 | CONSTRUCTION | 0 | 0 | 403,000 | 0 |
| SCOTT | 07 | 0101000 | CONSTRUCTION | 0 | 250,000 | 0 | 0 |
| SCOTT | 07 | 0101000 | RIGHT OF WAY | 10,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0101000 | UTILITIES | 5,000 | 0 | 0 | 0 |
| WARREN | 03 | 0100900 | CONSTRUCTION | 140,000 | 0 | 0 | 0 |
| WARREN | 03 | 0101400 | CONSTRUCTION | 0 | 150,000 | 0 | 0 |
| WARREN | 03 | 0101400 | RIGHT OF WAY | 7,000 | 0 | 0 | 0 |
| WARREN | 03 | 0101400 | UTILITIES | 5,000 | 0 | 0 | 0 |
| WASHINGTON | 04 | 0101000 | CONSTRUCTION | 220,000 | 0 | 0 | 0 |
| WHITLEY | 11 | 0100400 | CONSTRUCTION | 200,000 | 0 | 0 | 0 |
| WHITLEY | 11 | 0100500 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| WHITLEY | 11 | 0100500 | RIGHT OF WAY | 50,000 | 0 | 0 | 0 |
| WHITLEY | 11 | 0100500 | UTILITIES | 20,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0003500 | CONSTRUCTION | 500,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0003600 | CONSTRUCTION | 0 | 500,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0003700 | CONSTRUCTION | 0 | 0 | 500,000 | 0 |
| Z(VARIOUS) | 99 | 0003800 | CONSTRUCTION | 0 | 0 | 0 | 500,000 |
| Z(VARIOUS) | 99 | 0005400 | CONSTRUCTION | 0 | 0 | 4,100,000 | 0 |
| Z(VARIOUS) | 99 | 0005500 | CONSTRUCTION | 0 | 0 | 0 | 3,500,000 |
| | | | | 6,933,000 | 6,364,000 | 6,308,000 | 6,395,000 |

## Non-Federal Bridge Replacement

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| ALLEN | 03 | 0101800 | CONSTRUCTION | 0 | 210,000 | 0 | 0 |
| BARREN | 03 | 0100500 | CONSTRUCTION | 275,000 | 0 | 0 | 0 |
| BRECKINRIDGE | 04 | 0100900 | CONSTRUCTION | 175,000 | 0 | 0 | 0 |
| CALDWELL | 02 | 0100400 | CONSTRUCTION | 0 | 0 | 324,000 | 0 |
| CALDWELL | 02 | 0100400 | DESIGN | 30,000 | 0 | 0 | 0 |
| CALDWELL | 02 | 0100400 | RIGHT OF WAY | 0 | 10,000 | 0 | 0 |
| JOHNSON | 12 | 0101000 | CONSTRUCTION | 120,000 | 0 | 0 | 0 |
| KENTON | 06 | 0098300 | CONSTRUCTION | 880,000 | 0 | 0 | 0 |
| ROCKCASTLE | 08 | 0014400 | CONSTRUCTION | 0 | 515,000 | 0 | 0 |
| ROCKCASTLE | 08 | 0014400 | RIGHT OF WAY | 20,000 | 0 | 0 | 0 |
| ROCKCASTLE | 08 | 0014400 | UTILITIES | 15,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0005600 | CONSTRUCTION | 0 | 4,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0005700 | CONSTRUCTION | 0 | 0 | 4,400,000 | 0 |
| Z(VARIOUS) | 99 | 0005800 | CONSTRUCTION | 0 | 0 | 0 | 4,800,000 |
| Z(VARIOUS) | 99 | 0006200 | CONSTRUCTION | 3,500,000 | 0 | 0 | 0 |
| | | | | 5,015,000 | 4,735,000 | 4,724,000 | 4,800,000 |

Primary

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| ADAIR | 08 | 0015900 | CONSTRUCTION | 0 | 0 | 0 | 7,600,000 |
| ADAIR | 08 | 0015900 | RIGHT OF WAY | 0 | 1,500,000 | 0 | 0 |
| ADAIR | 08 | 0015900 | UTILITIES | 0 | 800,000 | 0 | 0 |
| BRECKINRIDGE | 04 | 0011600 | DESIGN | 1,500,000 | 0 | 0 | 0 |
| BRECKINRIDGE | 04 | 0011600 | RIGHT OF WAY | 0 | 0 | 2,800,000 | 0 |
| BRECKINRIDGE | 04 | 0011600 | UTILITIES | 0 | 0 | 2,000,000 | 0 |
| BULLITT | 05 | 0012003 | CONSTRUCTION | 0 | 0 | 3,430,000 | 0 |
| CAMPBELL | 06 | 0004600 | DESIGN | 0 | 0 | 1,500,000 | 0 |
| CAMPBELL | 06 | 0012000 | CONSTRUCTION | 0 | 4,000,000 | 0 | 0 |
| CAMPBELL | 06 | 0012000 | RIGHT OF WAY | 1,895,000 | 0 | 0 | 0 |
| CAMPBELL | 06 | 0012000 | UTILITIES | 619,000 | 0 | 0 | 0 |
| CAMPBELL | 06 | 0013900 | RIGHT OF WAY | 0 | 400,000 | 0 | 0 |
| CAMPBELL | 06 | 0013900 | UTILITIES | 0 | 500,000 | 0 | 0 |
| CAMPBELL | 06 | 0098000 | CONSTRUCTION | 5,000,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0011300 | CONSTRUCTION | 0 | 7,200,000 | 0 | 0 |
| CHRISTIAN | 02 | 0011300 | RIGHT OF WAY | 800,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0011300 | UTILITIES | 407,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0011303 | CONSTRUCTION | 0 | 0 | 0 | 4,200,000 |
| EDMONSON | 03 | 0013900 | CONSTRUCTION | 0 | 0 | 0 | 3,600,000 |
| EDMONSON | 03 | 0013900 | DESIGN | 360,000 | 0 | 0 | 0 |
| EDMONSON | 03 | 0013900 | RIGHT OF WAY | 0 | 0 | 900,000 | 0 |
| EDMONSON | 03 | 0013900 | UTILITIES | 0 | 0 | 600,000 | 0 |
| FAYETTE | 07 | 0001800 | DESIGN | 0 | 0 | 0 | 1,500,000 |
| FAYETTE | 07 | 0001900 | DESIGN | 0 | 0 | 1,000,000 | 0 |
| FAYETTE | 07 | 0008200 | DESIGN | 0 | 250,000 | 0 | 0 |
| FAYETTE | 07 | 0012700 | CONSTRUCTION | 0 | 6,500,000 | 0 | 0 |
| FAYETTE | 07 | 0012700 | RIGHT OF WAY | 285,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0012700 | UTILITIES | 26,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0012802 | DESIGN | 500,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0012900 | CONSTRUCTION | 0 | 2,000,000 | 0 | 0 |
| FAYETTE | 07 | 0016300 | CONSTRUCTION | 0 | 0 | 26,000,000 | 0 |
| FAYETTE | 07 | 0016300 | UTILITIES | 2,000,000 | 0 | 0 | 0 |
| GREEN | 04 | 0097702 | CONSTRUCTION | 1,599,000 | 0 | 0 | 0 |
| GREEN | 04 | 0097703 | CONSTRUCTION | 800,000 | 0 | 0 | 0 |
| HANCOCK | 02 | 0011404 | CONSTRUCTION | 0 | 1,700,000 | 0 | 0 |
| HARDIN | 04 | 0011800 | DESIGN | 100,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0011800 | RIGHT OF WAY | 0 | 0 | 150,000 | 0 |
| HARDIN | 04 | 0011800 | UTILITIES | 0 | 0 | 150,000 | 0 |
| JEFFERSON | 05 | 0012001 | CONSTRUCTION | 0 | 0 | 0 | 11,885,000 |
| JEFFERSON | 05 | 0012001 | RIGHT OF WAY | 0 | 3,400,000 | 0 | 0 |
| JEFFERSON | 05 | 0012001 | UTILITIES | 0 | 2,065,000 | 0 | 0 |
| JEFFERSON | 05 | 0012002 | CONSTRUCTION | 11,985,000 | 0 | 0 | 0 |
| JESSAMINE | 07 | 0099800 | CONSTRUCTION | 0 | 0 | 0 | 13,460,000 |
| JESSAMINE | 07 | 0099800 | UTILITIES | 0 | 52,000 | 0 | 0 |
| LOGAN | 03 | 0024706 | CONSTRUCTION | 9,000,000 | 0 | 0 | 0 |
| MADISON | 07 | 0013800 | CONSTRUCTION | 0 | 7,600,000 | 0 | 0 |
| MADISON | 07 | 0013802 | CONSTRUCTION | 0 | 0 | 3,000,000 | 0 |
| MEADE | 04 | 0017800 | DESIGN | 350,000 | 0 | 0 | 0 |
| MEADE | 04 | 0017800 | RIGHT OF WAY | 0 | 0 | 825,000 | 0 |
| MEADE | 04 | 0017800 | UTILITIES | 0 | 0 | 900,000 | 0 |
| NICHOLAS | 09 | 0011500 | CONSTRUCTION | 0 | 5,500,000 | 0 | 0 |
| SCOTT | 07 | 0007501 | CONSTRUCTION | 3,993,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0007503 | CONSTRUCTION | 0 | 0 | 3,990,000 | 0 |
| SHELBY | 05 | 0014800 | CONSTRUCTION | 6,194,000 | 0 | 0 | 0 |
| UNION | 02 | 0029400 | CONSTRUCTION | 0 | 0 | 0 | 7,000,000 |
| UNION | 02 | 0029400 | RIGHT OF WAY | 0 | 860,000 | 0 | 0 |
| UNION | 02 | 0029400 | UTILITIES | 0 | 600,000 | 0 | 0 |
| WASHINGTON | 04 | 0010301 | CONSTRUCTION | 3,567,000 | 0 | 0 | 0 |
| WASHINGTON | 04 | 0010302 | CONSTRUCTION | 0 | 4,500,000 | 0 | 0 |
| WASHINGTON | 04 | 0010302 | RIGHT OF WAY | 300,000 | 0 | 0 | 0 |
| WASHINGTON | 04 | 0010302 | UTILITIES | 115,000 | 0 | 0 | 0 |

### Future Bond Program

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BELL | 11 | 0005502 | CONSTRUCTION | 0 | 25,000,000 | 0 | 0 |
| BELL | 11 | 0005502 | RIGHT OF WAY | 2,220,000 | 0 | 0 | 0 |
| BELL | 11 | 0005502 | UTILITIES | 450,000 | 0 | 0 | 0 |
| CARTER | 09 | 0022304 | CONSTRUCTION | 10,891,000 | 0 | 0 | 0 |
| CARTER | 09 | 0022305 | CONSTRUCTION | 0 | 11,632,000 | 0 | 0 |
| CARTER | 09 | 0022310 | CONSTRUCTION | 0 | 14,337,000 | 0 | 0 |
| CARTER | 09 | 0022310 | UTILITIES | 1,623,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0101000 | CONSTRUCTION | 0 | 0 | 32,000,000 | 0 |
| CHRISTIAN | 02 | 0101000 | UTILITIES | 0 | 3,200,000 | 0 | 0 |
| DAVIESS | 02 | 0029501 | CONSTRUCTION | 0 | 6,000,000 | 0 | 0 |
| FRANKLIN | 05 | 0023500 | CONSTRUCTION | 0 | 12,200,000 | 0 | 0 |
| FRANKLIN | 05 | 0023500 | RIGHT OF WAY | 3,000,000 | 0 | 0 | 0 |
| FRANKLIN | 05 | 0023500 | UTILITIES | 1,500,000 | 0 | 0 | 0 |
| FRANKLIN | 05 | 0023502 | CONSTRUCTION | 0 | 0 | 19,000,000 | 0 |
| FRANKLIN | 05 | 0023502 | RIGHT OF WAY | 3,500,000 | 0 | 0 | 0 |
| FRANKLIN | 05 | 0023502 | UTILITIES | 0 | 1,600,000 | 0 | 0 |
| LETCHER | 12 | 0012600 | CONSTRUCTION | 33,500,000 | 0 | 0 | 0 |
| LETCHER | 12 | 0012700 | CONSTRUCTION | 0 | 0 | 0 | 59,200,000 |
| LETCHER | 12 | 0012700 | RIGHT OF WAY | 3,000,000 | 0 | 0 | 0 |
| LETCHER | 12 | 0012700 | UTILITIES | 0 | 1,000,000 | 0 | 0 |
| LETCHER | 12 | 0012701 | CONSTRUCTION | 0 | 0 | 0 | 41,000,000 |
| LETCHER | 12 | 0012701 | RIGHT OF WAY | 0 | 5,000,000 | 0 | 0 |
| LETCHER | 12 | 0012701 | UTILITIES | 0 | 0 | 1,000,000 | 0 |
| LOGAN | 03 | 0024801 | CONSTRUCTION | 2,800,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0027400 | CONSTRUCTION | 0 | 2,200,000 | 0 | 0 |
| MCCRACKEN | 01 | 0029002 | CONSTRUCTION | 0 | 5,000,000 | 0 | 0 |
| MERCER | 07 | 0020000 | CONSTRUCTION | 10,000,000 | 0 | 0 | 0 |
| OWEN | 05 | 0023503 | CONSTRUCTION | 0 | 0 | 0 | 14,000,000 |
| OWEN | 05 | 0023503 | RIGHT OF WAY | 0 | 2,600,000 | 0 | 0 |
| OWEN | 05 | 0023503 | UTILITIES | 0 | 0 | 1,200,000 | 0 |
| TODD | 03 | 0101900 | CONSTRUCTION | 0 | 0 | 25,000,000 | 0 |
| TODD | 03 | 0101900 | UTILITIES | 2,500,000 | 0 | 0 | 0 |
| TRIGG | 01 | 0106500 | CONSTRUCTION | 0 | 24,000,000 | 0 | 0 |
| TRIGG | 01 | 0106500 | UTILITIES | 2,400,000 | 0 | 0 | 0 |
|  |  |  |  | 77,384,000 | 113,769,000 | 78,200,000 | 114,200,000 |

### Hazard Elimination

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| DAVIESS | 02 | 0016800 | CONSTRUCTION | 170,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0021500 | CONSTRUCTION | 175,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0025000 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| JEFFERSON | 05 | 0025000 | RIGHT OF WAY | 80,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0025000 | UTILITIES | 50,000 | 0 | 0 | 0 |
| KENTON | 06 | 0018100 | CONSTRUCTION | 0 | 170,000 | 0 | 0 |
| KENTON | 06 | 0018100 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| KENTON | 06 | 0018100 | UTILITIES | 100,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0003900 | CONSTRUCTION | 0 | 2,500,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0004000 | CONSTRUCTION | 0 | 0 | 2,815,000 | 0 |
| Z(VARIOUS) | 99 | 0004100 | CONSTRUCTION | 0 | 0 | 0 | 2,815,000 |
| Z(VARIOUS) | 99 | 0004200 | CONSTRUCTION | 1,200,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0009000 | CONSTRUCTION | 1,000,000 | 0 | 0 | 0 |
|  |  |  |  | 2,875,000 | 2,870,000 | 2,815,000 | 2,815,000 |

### Federal Aid I-State 3-R

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BOONE | 06 | 0000500 | CONSTRUCTION | 7,855,000 | 0 | 0 | 0 |
| BOONE | 06 | 0001600 | CONSTRUCTION | 0 | 0 | 17,000,000 | 0 |
| BOYD | 09 | 0000800 | CONSTRUCTION | 0 | 0 | 0 | 15,000,000 |
| BOYD | 09 | 0000800 | RIGHT OF WAY | 500,000 | 0 | 0 | 0 |
| BOYD | 09 | 0000800 | UTILITIES | 1,500,000 | 0 | 0 | 0 |
| CARROLL | 06 | 0001215 | CONSTRUCTION | 0 | 0 | 4,000,000 | 0 |
| CLARK | 07 | 0000600 | CONSTRUCTION | 0 | 0 | 0 | 6,000,000 |
| CLARK | 07 | 0000600 | RIGHT OF WAY | 0 | 0 | 100,000 | 0 |
| HARDIN | 04 | 0000100 | CONSTRUCTION | 0 | 0 | 6,000,000 | 0 |
| HARDIN | 04 | 0000100 | RIGHT OF WAY | 0 | 30,000 | 0 | 0 |
| HARDIN | 04 | 0016807 | CONSTRUCTION | 11,000,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0001400 | CONSTRUCTION | 0 | 0 | 0 | 6,000,000 |
| JEFFERSON | 05 | 0001400 | DESIGN | 0 | 750,000 | 0 | 0 |
| JEFFERSON | 05 | 0001400 | RIGHT OF WAY | 0 | 0 | 100,000 | 0 |
| JEFFERSON | 05 | 0001400 | UTILITIES | 0 | 0 | 100,000 | 0 |
| JEFFERSON | 05 | 0002800 | CONSTRUCTION | 0 | 13,800,000 | 0 | 0 |
| JEFFERSON | 05 | 0002800 | RIGHT OF WAY | 2,000,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0002800 | UTILITIES | 900,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0003800 | CONSTRUCTION | 3,500,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0003901 | CONSTRUCTION | 0 | 0 | 1,700,000 | 0 |
| JEFFERSON | 05 | 0003902 | CONSTRUCTION | 0 | 0 | 0 | 1,700,000 |
| JEFFERSON | 05 | 0004700 | DESIGN | 300,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0004800 | DESIGN | 0 | 0 | 0 | 500,000 |
| JEFFERSON | 05 | 0005000 | CONSTRUCTION | 0 | 0 | 600,000 | 0 |
| KENTON | 06 | 0003801 | CONSTRUCTION | 26,000,000 | 0 | 0 | 0 |
| KENTON | 06 | 0003802 | CONSTRUCTION | 0 | 0 | 10,000,000 | 0 |
| MADISON | 07 | 0000700 | CONSTRUCTION | 0 | 6,000,000 | 0 | 0 |
| MADISON | 07 | 0000700 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| MADISON | 07 | 0000900 | CONSTRUCTION | 0 | 0 | 0 | 18,800,000 |
| MADISON | 07 | 0000900 | RIGHT OF WAY | 0 | 0 | 0 | 225,000 |
| MADISON | 07 | 0000901 | CONSTRUCTION | 0 | 0 | 0 | 31,000,000 |
| MADISON | 07 | 0000902 | CONSTRUCTION | 0 | 25,000,000 | 0 | 0 |
| MADISON | 07 | 0002100 | DESIGN | 0 | 0 | 1,000,000 | 0 |
| MADISON | 07 | 0013801 | CONSTRUCTION | 4,600,000 | 0 | 0 | 0 |
| OLDHAM | 05 | 0002900 | CONSTRUCTION | 3,398,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0000402 | CONSTRUCTION | 0 | 10,000,000 | 0 | 0 |
| SCOTT | 07 | 0000403 | CONSTRUCTION | 0 | 10,000,000 | 0 | 0 |
| SCOTT | 07 | 0000404 | CONSTRUCTION | 0 | 0 | 10,000,000 | 0 |
| SHELBY | 05 | 0000800 | CONSTRUCTION | 3,100,000 | 0 | 0 | 0 |
| SHELBY | 05 | 0000800 | RIGHT OF WAY | 135,000 | 0 | 0 | 0 |
| WARREN | 03 | 0025201 | CONSTRUCTION | 0 | 0 | 2,600,000 | 0 |
| WARREN | 03 | 0025201 | RIGHT OF WAY | 0 | 950,000 | 0 | 0 |
| WARREN | 03 | 0025201 | UTILITIES | 0 | 413,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0000400 | CONSTRUCTION | 15,000,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0000500 | CONSTRUCTION | 0 | 19,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0000600 | CONSTRUCTION | 0 | 0 | 20,000,000 | 0 |
| Z(VARIOUS) | 99 | 0000700 | CONSTRUCTION | 0 | 0 | 0 | 20,000,000 |
| | | | | 79,888,000 | 85,943,000 | 73,200,000 | 99,225,000 |

### KY Demonstration

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| DAVIESS | 02 | 0011601 | CONSTRUCTION | 48,373,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0016809 | CONSTRUCTION | 23,112,000 | 0 | 0 | 0 |
| JOHNSON | 12 | 0071309 | CONSTRUCTION | 0 | 7,064,000 | 0 | 0 |
| PIKE | 12 | 0030904 | CONSTRUCTION | 5,800,000 | 0 | 0 | 0 |
| | | | | 77,285,000 | 7,064,000 | 0 | 0 |

### Urban-Louisville (In)

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| JEFFERSON | 05 | 0008300 | CONSTRUCTION | 2,063,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0008600 | CONSTRUCTION | 175,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0008800 | CONSTRUCTION | 1,000,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0009100 | CONSTRUCTION | 0 | 0 | 0 | 2,500,000 |
| JEFFERSON | 05 | 0009100 | RIGHT OF WAY | 0 | 900,000 | 0 | 0 |
| JEFFERSON | 05 | 0009100 | UTILITIES | 0 | 125,000 | 0 | 0 |
| JEFFERSON | 05 | 0028501 | CONSTRUCTION | 4,285,000 | 0 | 0 | 0 |
| | | | | 7,523,000 | 1,025,000 | 0 | 2,500,000 |

### Urban-Louisville (Out)

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| JEFFERSON | 05 | 0002801 | CONSTRUCTION | 0 | 2,350,000 | 0 | 0 |
| JEFFERSON | 05 | 0002801 | RIGHT OF WAY | 1,400,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0002801 | UTILITIES | 500,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0002802 | CONSTRUCTION | 0 | 1,200,000 | 0 | 0 |
| JEFFERSON | 05 | 0002802 | RIGHT OF WAY | 2,100,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0002802 | UTILITIES | 300,000 | 0 | 0 | 0 |
| | | | | 4,300,000 | 3,550,000 | 0 | 0 |

### Urban-Northern KY

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BOONE | 06 | 0023700 | DESIGN | 125,000 | 0 | 0 | 0 |
| BOONE | 06 | 0023700 | RIGHT OF WAY | 0 | 0 | 250,000 | 0 |
| BOONE | 06 | 0023700 | UTILITIES | 0 | 0 | 50,000 | 0 |
| KENTON | 06 | 0007101 | CONSTRUCTION | 0 | 0 | 0 | 4,500,000 |
| KENTON | 06 | 0007101 | DESIGN | 250,000 | 0 | 0 | 0 |
| KENTON | 06 | 0007101 | RIGHT OF WAY | 0 | 700,000 | 0 | 0 |
| KENTON | 06 | 0007101 | UTILITIES | 0 | 0 | 300,000 | 0 |
| KENTON | 06 | 0017300 | DESIGN | 0 | 75,000 | 0 | 0 |
| KENTON | 06 | 0017400 | DESIGN | 0 | 75,000 | 0 | 0 |
| KENTON | 06 | 0017500 | DESIGN | 0 | 0 | 75,000 | 0 |
| KENTON | 06 | 0017600 | CONSTRUCTION | 0 | 400,000 | 0 | 0 |
| KENTON | 06 | 0017600 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| KENTON | 06 | 0017600 | UTILITIES | 50,000 | 0 | 0 | 0 |
| | | | | 525,000 | 1,250,000 | 675,000 | 4,500,000 |

### Urban-Statewide

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| CHRISTIAN | 02 | 0007200 | CONSTRUCTION | 0 | 0 | 2,000,000 | 0 |
| CHRISTIAN | 02 | 0007200 | RIGHT OF WAY | 500,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0007200 | UTILITIES | 300,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0028800 | CONSTRUCTION | 0 | 0 | 0 | 500,000 |
| CHRISTIAN | 02 | 0028800 | DESIGN | 150,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0028800 | RIGHT OF WAY | 0 | 70,000 | 0 | 0 |
| CHRISTIAN | 02 | 0028800 | UTILITIES | 0 | 60,000 | 0 | 0 |
| DAVIESS | 02 | 0018400 | DESIGN | 0 | 75,000 | 0 | 0 |
| DAVIESS | 02 | 0018400 | RIGHT OF WAY | 0 | 0 | 0 | 200,000 |
| DAVIESS | 02 | 0018400 | UTILITIES | 0 | 0 | 0 | 150,000 |
| DAVIESS | 02 | 0018500 | DESIGN | 0 | 100,000 | 0 | 0 |
| DAVIESS | 02 | 0018500 | RIGHT OF WAY | 0 | 0 | 0 | 400,000 |
| DAVIESS | 02 | 0018500 | UTILITIES | 0 | 0 | 0 | 150,000 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| FAYETTE | 07 | 0024100 | CONSTRUCTION | 0 | 0 | 1,380,000 | 0 |
| FAYETTE | 07 | 0024100 | RIGHT OF WAY | 300,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0024100 | UTILITIES | 150,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0099700 | CONSTRUCTION | 3,003,000 | 0 | 0 | 0 |
| GREENUP | 09 | 0013800 | DESIGN | 0 | 0 | 75,000 | 0 |
| GREENUP | 09 | 0013800 | RIGHT OF WAY | 0 | 0 | 0 | 150,000 |
| GREENUP | 09 | 0013800 | UTILITIES | 0 | 0 | 0 | 125,000 |
| HARDIN | 04 | 0017500 | DESIGN | 0 | 200,000 | 0 | 0 |
| HARDIN | 04 | 0017500 | RIGHT OF WAY | 0 | 0 | 0 | 300,000 |
| HARDIN | 04 | 0017500 | UTILITIES | 0 | 0 | 0 | 150,000 |
| HARDIN | 04 | 0017600 | DESIGN | 0 | 0 | 200,000 | 0 |
| HARDIN | 04 | 0017600 | RIGHT OF WAY | 0 | 0 | 0 | 300,000 |
| HARDIN | 04 | 0017600 | UTILITIES | 0 | 0 | 0 | 175,000 |
| MCCRACKEN | 01 | 0026000 | DESIGN | 250,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0026000 | RIGHT OF WAY | 0 | 0 | 1,000,000 | 0 |
| MCCRACKEN | 01 | 0026000 | UTILITIES | 0 | 0 | 0 | 300,000 |
| SCOTT | 07 | 0015802 | CONSTRUCTION | 0 | 407,000 | 0 | 0 |
| SCOTT | 07 | 0015802 | UTILITIES | 32,000 | 0 | 0 | 0 |
| WAYNE | 08 | 0005100 | RIGHT OF WAY | 0 | 0 | 0 | 1,568,000 |
| WHITLEY | 11 | 0005400 | CONSTRUCTION | 0 | 4,207,000 | 0 | 0 |
| | | | | 4,685,000 | 5,119,000 | 4,655,000 | 4,468,000 |

### Railroad Protection

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| Z(VARIOUS) | 99 | 0004700 | CONSTRUCTION | 1,385,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0004800 | CONSTRUCTION | 0 | 1,316,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0004900 | CONSTRUCTION | 0 | 0 | 1,316,000 | 0 |
| Z(VARIOUS) | 99 | 0005000 | CONSTRUCTION | 0 | 0 | 0 | 1,316,000 |
| | | | | 1,385,000 | 1,316,000 | 1,316,000 | 1,316,000 |

### Railroad Separation

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BULLITT | 05 | 0098700 | CONSTRUCTION | 0 | 2,000,000 | 0 | 0 |
| BULLITT | 05 | 0098700 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| BULLITT | 05 | 0098700 | UTILITIES | 100,000 | 0 | 0 | 0 |
| LEE | 10 | 0027400 | CONSTRUCTION | 0 | 0 | 0 | 1,800,000 |
| LEE | 10 | 0027400 | DESIGN | 150,000 | 0 | 0 | 0 |
| LEE | 10 | 0027400 | RIGHT OF WAY | 0 | 0 | 200,000 | 0 |
| LEE | 10 | 0027400 | UTILITIES | 0 | 0 | 100,000 | 0 |
| | | | | 350,000 | 2,000,000 | 300,000 | 1,800,000 |

### Secondary

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BATH | 09 | 0013600 | CONSTRUCTION | 3,500,000 | 0 | 0 | 0 |
| BOONE | 06 | 0006401 | DESIGN | 325,000 | 0 | 0 | 0 |
| BOONE | 06 | 0015900 | CONSTRUCTION | 1,171,000 | 0 | 0 | 0 |
| BOYLE | 07 | 0017600 | CONSTRUCTION | 0 | 0 | 6,915,000 | 0 |
| BOYLE | 07 | 0017600 | UTILITIES | 0 | 395,000 | 0 | 0 |
| BREATHITT | 10 | 0099200 | CONSTRUCTION | 0 | 0 | 0 | 7,676,000 |
| BREATHITT | 10 | 0099200 | UTILITIES | 0 | 300,000 | 0 | 0 |
| BULLITT | 05 | 0011700 | DESIGN | 0 | 750,000 | 0 | 0 |
| BULLITT | 05 | 0011700 | RIGHT OF WAY | 0 | 0 | 0 | 2,000,000 |
| BULLITT | 05 | 0011700 | UTILITIES | 0 | 0 | 0 | 1,200,000 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BULLITT | 05 | 0021700 | CONSTRUCTION | 0 | 0 | 250,000 | 0 |
| BULLITT | 05 | 0021700 | RIGHT OF WAY | 0 | 50,000 | 0 | 0 |
| BULLITT | 05 | 0021700 | UTILITIES | 0 | 20,000 | 0 | 0 |
| FAYETTE | 07 | 0012200 | RIGHT OF WAY | 0 | 3,900,000 | 0 | 0 |
| FAYETTE | 07 | 0012200 | UTILITIES | 0 | 0 | 850,000 | 0 |
| FLEMING | 09 | 0013500 | CONSTRUCTION | 6,000,000 | 0 | 0 | 0 |
| GRANT | 06 | 0027500 | DESIGN | 0 | 200,000 | 0 | 0 |
| GRAYSON | 04 | 0101300 | DESIGN | 0 | 0 | 0 | 300,000 |
| HARDIN | 04 | 0017400 | CONSTRUCTION | 104,000 | 0 | 0 | 0 |
| LAUREL | 11 | 0021000 | CONSTRUCTION | 0 | 0 | 0 | 2,100,000 |
| LAUREL | 11 | 0021000 | RIGHT OF WAY | 0 | 500,000 | 0 | 0 |
| LAUREL | 11 | 0021000 | UTILITIES | 0 | 150,000 | 0 | 0 |
| LEE | 10 | 0019900 | CONSTRUCTION | 0 | 2,550,000 | 0 | 0 |
| MASON | 09 | 0017200 | CONSTRUCTION | 430,000 | 0 | 0 | 0 |
| MENIFEE | 10 | 0020100 | CONSTRUCTION | 0 | 0 | 1,100,000 | 0 |
| MENIFEE | 10 | 0020100 | DESIGN | 61,000 | 0 | 0 | 0 |
| MENIFEE | 10 | 0020100 | RIGHT OF WAY | 0 | 20,000 | 0 | 0 |
| MENIFEE | 10 | 0020100 | UTILITIES | 0 | 15,000 | 0 | 0 |
| MONROE | 03 | 0018300 | CONSTRUCTION | 0 | 0 | 2,110,000 | 0 |
| MONROE | 03 | 0018300 | UTILITIES | 673,000 | 0 | 0 | 0 |
| MONROE | 03 | 0018301 | CONSTRUCTION | 0 | 0 | 2,390,000 | 0 |
| MONROE | 03 | 0027600 | DESIGN | 0 | 0 | 800,000 | 0 |
| ROWAN | 09 | 0013900 | CONSTRUCTION | 0 | 0 | 0 | 1,693,000 |
| ROWAN | 09 | 0013900 | DESIGN | 60,000 | 0 | 0 | 0 |
| ROWAN | 09 | 0013900 | RIGHT OF WAY | 0 | 0 | 45,000 | 0 |
| ROWAN | 09 | 0013900 | UTILITIES | 0 | 0 | 15,000 | 0 |
| ROWAN | 09 | 0017100 | CONSTRUCTION | 0 | 4,900,000 | 0 | 0 |
| ROWAN | 09 | 0017100 | UTILITIES | 2,700,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0015800 | CONSTRUCTION | 0 | 580,000 | 0 | 0 |
| SCOTT | 07 | 0015800 | RIGHT OF WAY | 640,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0015800 | UTILITIES | 60,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0015801 | CONSTRUCTION | 0 | 407,000 | 0 | 0 |
| SCOTT | 07 | 0015801 | UTILITIES | 32,000 | 0 | 0 | 0 |
| SHELBY | 05 | 0017200 | DESIGN | 0 | 150,000 | 0 | 0 |
| SHELBY | 05 | 0017200 | RIGHT OF WAY | 0 | 0 | 0 | 200,000 |
| SHELBY | 05 | 0017200 | UTILITIES | 0 | 0 | 0 | 367,000 |
| WHITLEY | 11 | 0012900 | DESIGN | 0 | 0 | 0 | 150,000 |
| | | | | 15,756,000 | 14,887,000 | 14,475,000 | 15,686,000 |

State Projects

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| BALLARD | 01 | 0026400 | CONSTRUCTION | 0 | 150,000 | 0 | 0 |
| BALLARD | 01 | 0026400 | RIGHT OF WAY | 241,000 | 0 | 0 | 0 |
| BALLARD | 01 | 0026400 | UTILITIES | 105,000 | 0 | 0 | 0 |
| BELL | 11 | 0026300 | CONSTRUCTION | 200,000 | 0 | 0 | 0 |
| BOONE | 06 | 0022201 | CONSTRUCTION | 0 | 3,694,000 | 0 | 0 |
| BOONE | 06 | 0022201 | UTILITIES | 1,050,000 | 0 | 0 | 0 |
| BOONE | 06 | 0022300 | CONSTRUCTION | 2,360,000 | 0 | 0 | 0 |
| BOYD | 09 | 0026100 | DESIGN | 100,000 | 0 | 0 | 0 |
| BREATHITT | 10 | 0027000 | CONSTRUCTION | 0 | 0 | 0 | 10,000,000 |
| BREATHITT | 10 | 0027000 | RIGHT OF WAY | 0 | 1,100,000 | 0 | 0 |
| BREATHITT | 10 | 0027000 | UTILITIES | 0 | 0 | 800,000 | 0 |
| BULLITT | 05 | 0026700 | CONSTRUCTION | 2,350,000 | 0 | 0 | 0 |
| CALDWELL | 02 | 0036300 | CONSTRUCTION | 0 | 1,214,000 | 0 | 0 |
| CALDWELL | 02 | 0036300 | RIGHT OF WAY | 360,000 | 0 | 0 | 0 |
| CALDWELL | 02 | 0036300 | UTILITIES | 40,000 | 0 | 0 | 0 |
| CAMPBELL | 06 | 0023200 | CONSTRUCTION | 3,525,000 | 0 | 0 | 0 |
| CHRISTIAN | 02 | 0026100 | CONSTRUCTION | 0 | 0 | 0 | 2,000,000 |
| CHRISTIAN | 02 | 0026100 | RIGHT OF WAY | 315,000 | 0 | 0 | 0 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| CHRISTIAN | 02 | 0026100 | UTILITIES | 150,000 | 0 | 0 | 0 |
| CLARK | 07 | 0013000 | CONSTRUCTION | 1,040,000 | 0 | 0 | 0 |
| CLAY | 11 | 0021200 | CONSTRUCTION | 1,750,000 | 0 | 0 | 0 |
| CLINTON | 08 | 0026000 | DESIGN | 0 | 400,000 | 0 | 0 |
| CUMBERLAND | 08 | 0015801 | CONSTRUCTION | 0 | 0 | 10,000,000 | 0 |
| CUMBERLAND | 08 | 0015801 | RIGHT OF WAY | 4,000,000 | 0 | 0 | 0 |
| CUMBERLAND | 08 | 0015801 | UTILITIES | 0 | 1,000,000 | 0 | 0 |
| DAVIESS | 02 | 0007301 | CONSTRUCTION | 0 | 0 | 0 | 1,670,000 |
| DAVIESS | 02 | 0007301 | RIGHT OF WAY | 1,450,000 | 0 | 0 | 0 |
| DAVIESS | 02 | 0007301 | UTILITIES | 0 | 0 | 480,000 | 0 |
| ELLIOTT | 09 | 0026000 | DESIGN | 0 | 0 | 225,000 | 0 |
| ELLIOTT | 09 | 0026000 | RIGHT OF WAY | 0 | 0 | 0 | 300,000 |
| ELLIOTT | 09 | 0026000 | UTILITIES | 0 | 0 | 0 | 75,000 |
| FAYETTE | 07 | 0007702 | CONSTRUCTION | 3,500,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0007900 | CONSTRUCTION | 0 | 0 | 0 | 1,631,000 |
| FAYETTE | 07 | 0007900 | UTILITIES | 0 | 0 | 154,000 | 0 |
| FAYETTE | 07 | 0012801 | DESIGN | 500,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0014300 | CONSTRUCTION | 2,500,000 | 0 | 0 | 0 |
| FAYETTE | 07 | 0023401 | CONSTRUCTION | 0 | 1,500,000 | 0 | 0 |
| FAYETTE | 07 | 0026701 | CONSTRUCTION | 0 | 900,000 | 0 | 0 |
| FAYETTE | 07 | 0026701 | UTILITIES | 0 | 300,000 | 0 | 0 |
| FLOYD | 12 | 0026600 | CONSTRUCTION | 1,750,000 | 0 | 0 | 0 |
| GRANT | 06 | 0027700 | DESIGN | 0 | 0 | 150,000 | 0 |
| GRAVES | 01 | 0015000 | CONSTRUCTION | 5,030,000 | 0 | 0 | 0 |
| GREEN | 04 | 0025100 | CONSTRUCTION | 1,034,000 | 0 | 0 | 0 |
| GREENUP | 09 | 0026300 | DESIGN | 0 | 150,000 | 0 | 0 |
| GREENUP | 09 | 0026300 | RIGHT OF WAY | 0 | 0 | 0 | 500,000 |
| GREENUP | 09 | 0026300 | UTILITIES | 0 | 0 | 0 | 400,000 |
| HARDIN | 04 | 0011700 | CONSTRUCTION | 900,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0027100 | CONSTRUCTION | 0 | 0 | 0 | 570,000 |
| HARDIN | 04 | 0027100 | DESIGN | 100,000 | 0 | 0 | 0 |
| HARDIN | 04 | 0027100 | RIGHT OF WAY | 0 | 122,000 | 0 | 0 |
| HARDIN | 04 | 0027100 | UTILITIES | 0 | 30,000 | 0 | 0 |
| HARLAN | 11 | 0005600 | CONSTRUCTION | 0 | 0 | 0 | 1,000,000 |
| HARLAN | 11 | 0005600 | DESIGN | 125,000 | 0 | 0 | 0 |
| HARLAN | 11 | 0005600 | RIGHT OF WAY | 0 | 0 | 150,000 | 0 |
| HARLAN | 11 | 0005600 | UTILITIES | 0 | 0 | 250,000 | 0 |
| HARLAN | 11 | 0026400 | DESIGN | 0 | 0 | 0 | 1,200,000 |
| HARLAN | 11 | 0026900 | DESIGN | 0 | 0 | 750,000 | 0 |
| HARRISON | 06 | 0011900 | DESIGN | 100,000 | 0 | 0 | 0 |
| HENDERSON | 02 | 0007700 | CONSTRUCTION | 3,000,000 | 0 | 0 | 0 |
| HENDERSON | 02 | 0007701 | CONSTRUCTION | 1,000,000 | 0 | 0 | 0 |
| HOPKINS | 02 | 0028900 | DESIGN | 0 | 0 | 0 | 200,000 |
| JACKSON | 11 | 0025700 | CONSTRUCTION | 0 | 0 | 0 | 490,000 |
| JACKSON | 11 | 0025700 | DESIGN | 0 | 25,000 | 0 | 0 |
| JACKSON | 11 | 0025700 | RIGHT OF WAY | 0 | 0 | 30,000 | 0 |
| JACKSON | 11 | 0025700 | UTILITIES | 0 | 0 | 40,000 | 0 |
| JEFFERSON | 05 | 0021200 | CONSTRUCTION | 0 | 8,000,000 | 0 | 0 |
| JEFFERSON | 05 | 0021200 | UTILITIES | 2,000,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0021201 | CONSTRUCTION | 0 | 0 | 8,000,000 | 0 |
| JEFFERSON | 05 | 0024700 | DESIGN | 0 | 0 | 500,000 | 0 |
| JEFFERSON | 05 | 0024700 | RIGHT OF WAY | 0 | 0 | 0 | 1,200,000 |
| JEFFERSON | 05 | 0024700 | UTILITIES | 0 | 0 | 0 | 2,000,000 |
| JEFFERSON | 05 | 0024800 | CONSTRUCTION | 0 | 3,600,000 | 0 | 0 |
| JEFFERSON | 05 | 0024800 | RIGHT OF WAY | 850,000 | 0 | 0 | 0 |
| JEFFERSON | 05 | 0024800 | UTILITIES | 1,000,000 | 0 | 0 | 0 |
| KENTON | 06 | 0006600 | CONSTRUCTION | 0 | 2,500,000 | 0 | 0 |
| KENTON | 06 | 0027300 | DESIGN | 300,000 | 0 | 0 | 0 |
| KNOX | 11 | 0000301 | CONSTRUCTION | 0 | 0 | 0 | 9,600,000 |
| KNOX | 11 | 0000301 | RIGHT OF WAY | 500,000 | 0 | 0 | 0 |
| KNOX | 11 | 0000301 | UTILITIES | 0 | 150,000 | 0 | 0 |
| LESLIE | 11 | 0026700 | DESIGN | 0 | 150,000 | 0 | 0 |
| LETCHER | 12 | 0031104 | CONSTRUCTION | 0 | 0 | 0 | 10,000,000 |
| LETCHER | 12 | 0031104 | DESIGN | 1,500,000 | 0 | 0 | 0 |
| LINCOLN | 08 | 0024402 | CONSTRUCTION | 0 | 0 | 8,800,000 | 0 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| LOGAN | 03 | 0027500 | CONSTRUCTION | 0 | 0 | 1,450,000 | 0 |
| LOGAN | 03 | 0027500 | RIGHT OF WAY | 170,000 | 0 | 0 | 0 |
| LOGAN | 03 | 0027500 | UTILITIES | 130,000 | 0 | 0 | 0 |
| MADISON | 07 | 0016200 | CONSTRUCTION | 0 | 0 | 0 | 7,520,000 |
| MADISON | 07 | 0016200 | RIGHT OF WAY | 0 | 940,000 | 0 | 0 |
| MADISON | 07 | 0016200 | UTILITIES | 0 | 376,000 | 0 | 0 |
| MADISON | 07 | 0029300 | CONSTRUCTION | 0 | 0 | 0 | 1,750,000 |
| MADISON | 07 | 0029300 | RIGHT OF WAY | 0 | 0 | 500,000 | 0 |
| MADISON | 07 | 0029300 | UTILITIES | 0 | 0 | 700,000 | 0 |
| MARION | 04 | 0016900 | CONSTRUCTION | 2,400,000 | 0 | 0 | 0 |
| MARION | 04 | 0016901 | CONSTRUCTION | 0 | 0 | 1,500,000 | 0 |
| MARION | 04 | 0016901 | RIGHT OF WAY | 0 | 300,000 | 0 | 0 |
| MARION | 04 | 0016901 | UTILITIES | 0 | 65,000 | 0 | 0 |
| MASON | 09 | 0020700 | CONSTRUCTION | 0 | 0 | 16,000,000 | 0 |
| MASON | 09 | 0020900 | CONSTRUCTION | 2,650,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0026200 | CONSTRUCTION | 500,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0026300 | CONSTRUCTION | 0 | 200,000 | 0 | 0 |
| MCCRACKEN | 01 | 0026300 | UTILITIES | 100,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0029001 | CONSTRUCTION | 0 | 10,000,000 | 0 | 0 |
| MCCRACKEN | 01 | 0062301 | CONSTRUCTION | 3,308,000 | 0 | 0 | 0 |
| MCCRACKEN | 01 | 0062302 | CONSTRUCTION | 9,840,000 | 0 | 0 | 0 |
| MCCREARY | 08 | 0026100 | DESIGN | 100,000 | 0 | 0 | 0 |
| MCCREARY | 08 | 0026200 | DESIGN | 0 | 0 | 0 | 350,000 |
| MCLEAN | 02 | 0096901 | CONSTRUCTION | 0 | 0 | 1,240,000 | 0 |
| MEADE | 04 | 0014900 | CONSTRUCTION | 0 | 750,000 | 0 | 0 |
| MEADE | 04 | 0014900 | DESIGN | 15,000 | 0 | 0 | 0 |
| MENIFEE | 10 | 0027700 | CONSTRUCTION | 0 | 0 | 0 | 5,000,000 |
| MENIFEE | 10 | 0027700 | DESIGN | 150,000 | 0 | 0 | 0 |
| MENIFEE | 10 | 0027700 | RIGHT OF WAY | 0 | 0 | 426,000 | 0 |
| MENIFEE | 10 | 0027700 | UTILITIES | 0 | 0 | 150,000 | 0 |
| MERCER | 07 | 0030000 | CONSTRUCTION | 0 | 750,000 | 0 | 0 |
| MERCER | 07 | 0030000 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| MERCER | 07 | 0030000 | UTILITIES | 50,000 | 0 | 0 | 0 |
| MONROE | 03 | 0027902 | CONSTRUCTION | 300,000 | 0 | 0 | 0 |
| MORGAN | 10 | 0027100 | CONSTRUCTION | 0 | 5,600,000 | 0 | 0 |
| MORGAN | 10 | 0027100 | UTILITIES | 50,000 | 0 | 0 | 0 |
| MORGAN | 10 | 0027800 | CONSTRUCTION | 0 | 0 | 3,900,000 | 0 |
| MORGAN | 10 | 0027800 | DESIGN | 150,000 | 0 | 0 | 0 |
| MORGAN | 10 | 0027800 | RIGHT OF WAY | 0 | 500,000 | 0 | 0 |
| MORGAN | 10 | 0027800 | UTILITIES | 0 | 50,000 | 0 | 0 |
| MUHLENBERG | 02 | 0029600 | CONSTRUCTION | 0 | 175,000 | 0 | 0 |
| MUHLENBERG | 02 | 0029600 | RIGHT OF WAY | 100,000 | 0 | 0 | 0 |
| MUHLENBERG | 02 | 0029600 | UTILITIES | 50,000 | 0 | 0 | 0 |
| OHIO | 02 | 0015900 | CONSTRUCTION | 7,000,000 | 0 | 0 | 0 |
| PENDLETON | 06 | 0027600 | DESIGN | 0 | 0 | 0 | 100,000 |
| PERRY | 10 | 0026900 | CONSTRUCTION | 0 | 0 | 14,000,000 | 0 |
| PERRY | 10 | 0026900 | RIGHT OF WAY | 2,000,000 | 0 | 0 | 0 |
| PERRY | 10 | 0026900 | UTILITIES | 0 | 1,500,000 | 0 | 0 |
| PIKE | 12 | 0025301 | CONSTRUCTION | 8,750,000 | 0 | 0 | 0 |
| PIKE | 12 | 0034100 | CONSTRUCTION | 0 | 11,400,000 | 0 | 0 |
| PIKE | 12 | 0034100 | UTILITIES | 570,000 | 0 | 0 | 0 |
| PULASKI | 08 | 0011201 | CONSTRUCTION | 0 | 0 | 0 | 10,000,000 |
| PULASKI | 08 | 0011201 | RIGHT OF WAY | 2,500,000 | 0 | 0 | 0 |
| PULASKI | 08 | 0011201 | UTILITIES | 0 | 400,000 | 0 | 0 |
| PULASKI | 08 | 0025900 | DESIGN | 0 | 0 | 600,000 | 0 |
| ROBERTSON | 06 | 0024100 | CONSTRUCTION | 1,015,000 | 0 | 0 | 0 |
| ROBERTSON | 06 | 0024200 | CONSTRUCTION | 315,000 | 0 | 0 | 0 |
| ROCKCASTLE | 08 | 0014300 | CONSTRUCTION | 0 | 0 | 0 | 2,430,000 |
| ROCKCASTLE | 08 | 0014300 | DESIGN | 200,000 | 0 | 0 | 0 |
| ROCKCASTLE | 08 | 0014300 | RIGHT OF WAY | 0 | 0 | 1,726,000 | 0 |
| ROCKCASTLE | 08 | 0014300 | UTILITIES | 0 | 0 | 100,000 | 0 |
| ROWAN | 09 | 0025001 | CONSTRUCTION | 0 | 1,200,000 | 0 | 0 |
| ROWAN | 09 | 0025001 | UTILITIES | 285,000 | 0 | 0 | 0 |

| County | Dist | Item# | Phase | FY93 | FY94 | FY95 | FY96 |
|---|---|---|---|---|---|---|---|
| ROWAN | 09 | 0025002 | CONSTRUCTION | 1,100,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0016400 | CONSTRUCTION | 0 | 5,300,000 | 0 | 0 |
| SCOTT | 07 | 0016400 | UTILITIES | 200,000 | 0 | 0 | 0 |
| SCOTT | 07 | 0025600 | CONSTRUCTION | 0 | 3,646,000 | 0 | 0 |
| SCOTT | 07 | 0025600 | UTILITIES | 475,000 | 0 | 0 | 0 |
| SHELBY | 05 | 0011500 | CONSTRUCTION | 0 | 0 | 2,100,000 | 0 |
| SHELBY | 05 | 0011500 | DESIGN | 100,000 | 0 | 0 | 0 |
| SHELBY | 05 | 0024900 | DESIGN | 0 | 0 | 100,000 | 0 |
| TAYLOR | 04 | 0024800 | CONSTRUCTION | 0 | 0 | 0 | 4,210,000 |
| TAYLOR | 04 | 0024800 | RIGHT OF WAY | 0 | 1,095,000 | 0 | 0 |
| TAYLOR | 04 | 0024800 | UTILITIES | 0 | 0 | 350,000 | 0 |
| TAYLOR | 04 | 0026700 | CONSTRUCTION | 0 | 0 | 0 | 11,000,000 |
| TAYLOR | 04 | 0026700 | DESIGN | 750,000 | 0 | 0 | 0 |
| TAYLOR | 04 | 0026700 | RIGHT OF WAY | 0 | 0 | 2,000,000 | 0 |
| TAYLOR | 04 | 0026700 | UTILITIES | 0 | 0 | 1,750,000 | 0 |
| WARREN | 03 | 0005200 | CONSTRUCTION | 0 | 0 | 0 | 7,100,000 |
| WARREN | 03 | 0005200 | RIGHT OF WAY | 0 | 750,000 | 0 | 0 |
| WARREN | 03 | 0005200 | UTILITIES | 0 | 0 | 1,250,000 | 0 |
| WARREN | 03 | 0025200 | CONSTRUCTION | 0 | 0 | 4,000,000 | 0 |
| WARREN | 03 | 0025200 | RIGHT OF WAY | 1,350,000 | 0 | 0 | 0 |
| WARREN | 03 | 0025200 | UTILITIES | 1,480,000 | 0 | 0 | 0 |
| WARREN | 03 | 0027700 | DESIGN | 0 | 0 | 0 | 300,000 |
| WEBSTER | 02 | 0029000 | CONSTRUCTION | 0 | 0 | 335,000 | 0 |
| WEBSTER | 02 | 0029000 | DESIGN | 0 | 31,000 | 0 | 0 |
| WHITLEY | 11 | 0012600 | DESIGN | 501,000 | 0 | 0 | 0 |
| WHITLEY | 11 | 0012600 | RIGHT OF WAY | 0 | 0 | 0 | 2,200,000 |
| WHITLEY | 11 | 0012600 | UTILITIES | 0 | 0 | 0 | 650,000 |
| WOODFORD | 07 | 0027400 | RIGHT OF WAY | 0 | 0 | 0 | 2,641,000 |
| WOODFORD | 07 | 0027400 | UTILITIES | 0 | 0 | 0 | 584,000 |
| Z(VARIOUS) | 99 | 0001400 | CONSTRUCTION | 15,000,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0001500 | CONSTRUCTION | 0 | 10,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0001600 | CONSTRUCTION | 0 | 0 | 10,000,000 | 0 |
| Z(VARIOUS) | 99 | 0001700 | CONSTRUCTION | 0 | 0 | 0 | 10,000,000 |
| Z(VARIOUS) | 99 | 0002100 | CONSTRUCTION | 5,000,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0002200 | CONSTRUCTION | 0 | 5,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0005900 | CONSTRUCTION | 0 | 0 | 5,000,000 | 0 |
| Z(VARIOUS) | 99 | 0006000 | CONSTRUCTION | 0 | 0 | 0 | 5,000,000 |
| Z(VARIOUS) | 99 | 0006500 | CONSTRUCTION | 5,000,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0006600 | CONSTRUCTION | 0 | 5,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0006700 | CONSTRUCTION | 0 | 0 | 4,000,000 | 0 |
| Z(VARIOUS) | 99 | 0006800 | CONSTRUCTION | 0 | 0 | 0 | 4,000,000 |
| Z(VARIOUS) | 99 | 0007100 | CONSTRUCTION | 8,000,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0007200 | CONSTRUCTION | 0 | 8,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0007300 | CONSTRUCTION | 0 | 0 | 5,000,000 | 0 |
| Z(VARIOUS) | 99 | 0007600 | CONSTRUCTION | 8,000,000 | 0 | 0 | 0 |
| Z(VARIOUS) | 99 | 0007700 | CONSTRUCTION | 0 | 8,000,000 | 0 | 0 |
| Z(VARIOUS) | 99 | 0007800 | CONSTRUCTION | 0 | 0 | 8,000,000 | 0 |
| Z(VARIOUS) | 99 | 0007900 | CONSTRUCTION | 0 | 0 | 0 | 8,000,000 |
|  |  |  |  | 134,479,000 | 106,013,000 | 116,506,000 | 125,671,000 |
|  |  |  | GRAND TOTAL: | 536,145,000 | 437,921,000 | 392,808,000 | 493,474,000 |

(2) Those projects which were removed in the 1988 Highway Construction Plan but not completed by the Department of Highways, as follows:

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| HANCOCK | 02 | 0011400 |
| OHIO | 02 | 0019800 |
| HANCOCK | 02 | 0020000 |
| HENDERSON | 02 | 0024402 |
| DAVIESS | 02 | 0024502 |

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| WEBSTER | 02 | 0025300 |
| DAVIESS | 02 | 0025702 |
| DAVIESS | 02 | 0036100 |
| HOPKINS | 02 | 0097600 |
| OHIO | 02 | 0098000 |
| BUTLER | 03 | 0016800 |
| ALLEN | 03 | 0016900 |
| BUTLER | 03 | 0098400 |
| BUTLER | 03 | 0098500 |
| WASHINGTON | 04 | 0010300 |
| HARDIN | 04 | 0016801 |
| HARDIN | 04 | 0016802 |
| HARDIN | 04 | 0017300 |
| GREEN | 04 | 0097700 |
| OLDHAM | 05 | 0017100 |
| BOONE | 06 | 0000200 |
| GRANT | 06 | 0000600 |
| KENTON | 06 | 0006201 |
| PENDLETON | 06 | 0011711 |
| BRACKEN | 06 | 0021200 |
| BRACKEN | 06 | 0021202 |
| BOYLE | 07 | 0007600 |
| FAYETTE | 07 | 0014500 |
| ROCKCASTLE | 07 | 0016200 |
| MONTGOMERY | 07 | 0019300 |
| MONTGOMERY | 07 | 0090300 |
| CUMBERLAND | 08 | 0010500 |
| CASEY | 08 | 0011700 |
| ADAIR | 08 | 0024300 |
| WOLFE | 10 | 0090300 |
| KNOX | 11 | 0090500 |
| PIKE | 12 | 0017500 |
| PIKE | 12 | 0030101 |
| JOHNSON | 12 | 0090700 |
| FLOYD | 12 | 0091000 |
| LETCHER | 12 | 0091100 |

(3) Those projects which were removed in the 1990 Highway Construction Plan but not completed by the Department of Highways, as follows:

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| MASON | 09 | 0015200 |
| LESLIE | 11 | 0090600 |
| LESLIE | 11 | 0090700 |
| FLOYD | 12 | 0015100 |
| KNOTT | 12 | 0090600 |
| JOHNSON | 12 | 0090800 |

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| MARSHALL | 01 | 0014900 |
| FULTON | 01 | 0062901 |
| FULTON | 01 | 0062903 |
| CALDWELL | 02 | 0007100 |
| DAVIESS | 02 | 0007400 |
| CHRISTIAN | 02 | 0011000 |
| CHRISTIAN | 02 | 0011500 |
| CHRISTIAN | 02 | 0025100 |
| CHRISTIAN | 02 | 0026000 |
| CHRISTIAN | 02 | 0036200 |
| CHRISTIAN | 02 | 0096100 |
| MCLEAN | 02 | 0096900 |

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| SIMPSON | 03 | 0026200 |
| WARREN | 03 | 0098000 |
| WARREN | 03 | 0098100 |
| JEFFERSON | 05 | 0000200 |
| SHELBY | 05 | 0000900 |
| JEFFERSON | 05 | 0010900 |
| HENRY | 05 | 0013100 |
| FRANKLIN | 05 | 0022800 |
| JEFFERSON | 05 | 0023800 |
| JEFFERSON | 05 | 0025800 |
| GRANT | 06 | 0007000 |
| GRANT | 06 | 0016900 |
| GRANT | 06 | 0016901 |
| OWEN | 06 | 0021400 |
| CAMPBELL | 06 | 0022700 |
| FAYETTE | 07 | 0007700 |
| SCOTT | 07 | 0019100 |
| CLARK | 07 | 0025400 |
| CLARK | 07 | 0025500 |
| LINCOLN | 08 | 0013300 |
| LINCOLN | 08 | 0013400 |
| LINCOLN | 08 | 0013500 |
| CLINTON | 08 | 0015400 |
| CUMBERLAND | 08 | 0015500 |
| CLINTON | 08 | 0015700 |
| MCCREARY | 08 | 0024400 |
| PULASKI | 08 | 0099100 |
| LEWIS | 09 | 0010100 |
| GREENUP | 09 | 0020600 |
| MORGAN | 10 | 0012500 |
| MENIFEE | 10 | 0015200 |
| BELL | 11 | 0005500 |
| MORGAN | 10 | 0012500 |
| MENIFEE | 10 | 0015200 |
| MAGOFFIN | 10 | 0018500 |
| HARLAN | 11 | 0025400 |
| WHITLEY | 11 | 0090800 |
| HARLAN | 11 | 0098700 |
| FLOYD | 12 | 0011600 |
| FLOYD | 12 | 0011700 |
| FLOYD | 12 | 0011800 |
| JOHNSON | 12 | 0011900 |
| PIKE | 12 | 0012200 |
| PIKE | 12 | 0025400 |
| CALLOWAY | 01 | 0016800 |
| MCCRACKEN | 01 | 0028900 |
| MCCRACKEN | 01 | 0103500 |
| MCCRACKEN | 01 | 0103600 |
| MARSHALL | 01 | 0103800 |
| GRAVES | 01 | 0104100 |
| HOPKINS | 02 | 0027300 |
| MUHLENBERG | 02 | 0027400 |
| CHRISTIAN | 02 | 0096000 |
| SIMPSON | 03 | 0000200 |
| SIMPSON | 03 | 0026201 |
| BUTLER | 03 | 0098600 |
| TODD | 03 | 0100000 |
| TODD | 03 | 0100100 |
| LOGAN | 03 | 0100300 |
| LOGAN | 03 | 0100400 |
| WARREN | 03 | 0100600 |
| ALLEN | 03 | 0100700 |
| TODD | 03 | 0100800 |

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| BOYLE | 04 | 0010303 |
| NELSON | 04 | 0025500 |
| GRAYSON | 04 | 0025700 |
| LARUE | 04 | 0026400 |
| GREEN | 04 | 0026500 |
| GREEN | 04 | 0026600 |
| GRAYSON | 04 | 0100400 |
| HART | 04 | 0100500 |
| NELSON | 04 | 0100600 |
| HARDIN | 04 | 0100700 |
| WASHINGTON | 04 | 0101100 |
| JEFFERSON | 05 | 0002702 |
| JEFFERSON | 05 | 0003100 |
| FRANKLIN | 05 | 0003700 |
| JEFFERSON | 05 | 0009000 |
| SPENCER | 05 | 0013300 |
| JEFFERSON | 05 | 0021801 |
| OLDHAM | 05 | 0026400 |
| JEFFERSON | 05 | 0100000 |
| JEFFERSON | 05 | 0100100 |
| SHELBY | 05 | 0100200 |
| OLDHAM | 05 | 0100300 |
| SHELBY | 05 | 0100400 |
| BOONE | 06 | 0004300 |
| KENTON | 06 | 0004400 |
| KENTON | 06 | 0006300 |
| PENDLETON | 06 | 0011712 |
| BOONE | 06 | 0014000 |
| BOONE | 06 | 0014100 |
| BOONE | 06 | 0014200 |
| BOONE | 06 | 0014300 |
| BOONE | 06 | 0014400 |
| BOONE | 06 | 0014500 |
| CAMPBELL | 06 | 0017200 |
| BOONE | 06 | 0023600 |
| BOONE | 06 | 0023800 |
| BOONE | 06 | 0023900 |
| BOONE | 06 | 0026000 |
| BOONE | 06 | 0026100 |
| GRANT | 06 | 0026300 |
| KENTON | 06 | 0026400 |
| KENTON | 06 | 0026500 |
| OWEN | 06 | 0026600 |
| HARRISON | 06 | 0100000 |
| HARRISON | 06 | 0100100 |
| PENDLETON | 06 | 0100200 |
| FAYETTE | 07 | 0008000 |
| FAYETTE | 07 | 0008100 |
| FAYETTE | 07 | 0012300 |
| BOYLE | 07 | 0017800 |
| ANDERSON | 07 | 0018200 |
| GARRARD | 07 | 0018600 |
| SCOTT | 07 | 0022207 |
| MERCER | 07 | 0023700 |
| MONTGOMERY | 07 | 0028100 |
| MADISON | 07 | 0028200 |
| ADAIR | 08 | 0015800 |
| ROCKCASTLE | 08 | 0016200 |
| PULASKI | 08 | 0024600 |
| CLINTON | 08 | 0024900 |
| CASEY | 08 | 0025000 |
| CASEY | 08 | 0025100 |
| CASEY | 08 | 0025200 |

| COUNTY | DISTRICT | ITEM NO |
|---|---|---|
| GREENUP | 09 | 0005600 |
| ROWAN | 09 | 0017101 |
| ELLIOTT | 09 | 0025600 |
| GREENUP | 09 | 0100900 |
| FLEMING | 09 | 0101000 |
| MASON | 09 | 0101100 |
| PERRY | 10 | 0024300 |
| MORGAN | 10 | 0025400 |
| OWSLEY | 10 | 0025900 |
| HARLAN | 11 | 0012700 |
| HARLAN | 11 | 0012800 |
| KNOX | 11 | 0020900 |
| BELL | 11 | 0025100 |
| LAUREL | 11 | 0100100 |
| JOHNSON | 12 | 0012900 |
| MARTIN | 12 | 0016102 |
| JOHNSON | 12 | 0025800 |
| KNOTT | 12 | 0025900 |
| KNOTT | 12 | 0026000 |
| LETCHER | 12 | 0030308 |
| LETCHER | 12 | 0031100 |
| FLOYD | 12 | 0071207 |
| PIKE | 12 | 0100700 |
| LAWRENCE | 12 | 0100800 |
| FLOYD | 12 | 0100900 |
| PIKE | 12 | 0101100 |
| LETCHER | 12 | 0101200 |
| JOHNSON | 12 | 0101300 |
| LAWRENCE | 12 | 0101400 |
| LETCHER | 12 | 0101500 |

Section 2. That the Secretary of Transportation shall work in conjunction with the General Assembly to move each of the projects in Section 1 of this Resolution as expeditiously as possible while ensuring that in the next biennium both plans are balanced with respect to revenue which may be available to the Department of Highways and the other statutory provisions which govern this highway construction plan.

Section 3. That a copy of this resolution be transmitted to the Governor of Kentucky and the Secretary of the Kentucky Transportation Cabinet.

The Committee on Banking and Insurance reported **HB 867** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 867,** AN ACT relating to insurance and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

***It shall be an unfair or deceptive trade practice for a group or blanket health insurance policy to exclude coverage for a health condition based solely on the fact that the health condition is work-related unless the claimant is eligible for benefits under any workers' compensation act or similar law.***

Section 2. Whereas, group or blanket health insurers persist in attempting to exclude coverage for work-related injuries which are not covered by workers' compensation, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Banking and Insurance reported **HB 900, SB 242** and **HB 860** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 900,** AN ACT relating to group insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

***(1) For purposes of this section:***

***(a) "Eligible employee" means a state employee as defined in KRS 18A.205 for purposes of life insurance and KRS 18A.225 and 18A.228 for purposes of health insurance; and***

***(b) "Governmental unit" means any department, division, administrative body, or separate payroll area of state government and any district board of education.***

***(2) (a) Any governmental unit may form its employees into a group for insurance purposes separate from the state master contract for health or life insurance procured in accordance with KRS Chapter 18A and shall notify the Department of Personnel of its intention to form a separate group. The Department of Personnel shall reimburse the governmental unit for life or health insurance or both in an amount equal to the state's premium contribution under the current state master contract or the premium cost for single coverage under the governmental unit's contract, whichever is less, for each eligible employee.***

***(b) Any governmental unit forming its own group shall notify the Department of Personnel of its decision by June 1 of the year in which the option is taken and shall be eligible for reimbursement for insurance premiums beginning October 1 of that same year. A governmental unit opting to separate from the state master contract as set out in this Act shall provide a policy with coverage, including the applicable deductibles, at least equal to the coverage provided by the state contract.***

Section 2. KRS 161.158 is amended to read as follows:

(1) ***Subject to the provisions of Section 1 of this Act,*** each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance or any group insurance plans to aid its employees, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. Such deductions shall be made from salaries earned in at least eight different pay periods, and shall be remitted to the appropriate organization or association as specified by the employees. The deductions may be made for, but are not limited to, membership dues, tax sheltered annuities and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one remittance, of amounts deducted during a pay period, for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, said board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools; and the payments and deductions do not affect the eligibility of any school system to participate in the foundation program as established in KRS chapter 157.

SB 242, AN ACT relating to financial documents.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy or mill, or from one market, warehouse, dairy or mill to another market, warehouse, dairy or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection; or

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles to the extent such are used or operated in transportation programs pursuant to grants of funds in furtherance of and governed by the provisions of Title III and Title VII of the federal Older Americans Act of 1965, Public Law 89-73, including all amendments thereto, and to the extent such are used or operated to transport persons whose fares are reimbursed or paid through programs in furtherance of and governed by the provisions of Title XIX and Title XX of the federal Social Security Act, including all amendments thereto;

(5) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(6) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(7) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(8) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(9) Motor vehicles used as ambulances in transporting wounded, injured, or sick persons or animals;

(10) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(11) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(12) Motor vehicles used [~~by a bank~~] to transport cash letters, data processing material, instruments or documents [~~between any of the bank's facilities and the facilities of any other bank~~], regardless of the ownership of any of said cash letters, data processing material, instruments or documents[~~; provided, however, that such transportation is incidental to such bank's primary banking business~~].

**HB 860**, AN ACT relating to motor vehicles accidents.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 187.310 is amended to read as follows:

The cabinet shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of KRS 187.290 to 187.620, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any ***accident,*** injury, or damage caused by such person, the department shall so certify. The certified abstract shall not include information concerning any violation of the law, ***accident,*** injury, or damage which occurred earlier than three years prior to the request. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. [~~The certified abstract shall not include accident reports filed with the department of state police under KRS 189.635 and the cabinet shall not furnish to any person the accident report of a driver other than himself.~~] This section shall in no way preclude the right of any court of law, law enforcement officer, or attorney representing the individual affected from securing full and complete information concerning the record of that individual.

Section 2. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of ***five*** [~~two~~] hundred dollars ***($500)*** [~~($200)~~] or more is sustained shall, within ten (10) days, report the matter in writing to the Justice Cabinet.

Section 3. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or non-fatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding ***five*** [~~two~~] hundred dollars ***($500)*** [~~($200)~~] in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident.

The Committee Amendment No. 1 to **HB 860** is as follows:

Amend printed copy of **HB 860** on page 3, line 19, after "." and before "such" by inserting:

***"All accident reports more than five (5) years old shall be purged from the reporting system records."***

The Committee on Cities reported **HB 778, HB 842, HB 845, SB 17, SB 211** with House Committee Substitute attached thereto, **SB 224, SB 289, SB 340** with Committee Amendment attached thereto, **SCR 105,** SCR 109, SB 181 and SB 144 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 778**, AN ACT relating to abandoned urban property.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:***

***(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or***

***(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or***

***(c) Has been tax delinquent for a period of at least three (3) years.***

***(2) For purposes of local taxation in cities of the first class, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of the first class may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

***(1) Any city of the first class which finds and declares that there exists abandoned urban property as defined in Section 1(1) of this Act within the city or which finds that there exists blighted or deteriorated property pursuant to KRS 99.710 et. seq., may levy a separate rate of taxation on abandoned urban property pursuant to Section 1(2) of this Act.***

***(2) Prior to levying a tax upon abandoned urban property, the legislative body of a city of the first class shall delegate to the vacant properties review commission, if established pursuant to KRS 99.710 et. seq., or another department or agency of city government, the responsibility of determining which properties within the city are abandoned urban properties. A list of abandoned urban properties shall be furnished to the county property valuation administrator prior to the date fixed for the annual assessment of real property within the county. If a property classified as abandoned urban property is repaired, rehabilitated or otherwise returned to productive use, the owner shall notify the city which shall, if it finds the property is no longer abandoned urban property, notify the property valuation administrator to strike the property from the list of abandoned urban properties.***

**HB 842**, AN ACT relating to public nuisances.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of rubbish or the excessive growth thereon of weeds or grass.

(2) It shall be unlawful for the owner, occupant or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) It shall be unlawful in any city for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures or other residents of the city.

(4) Any city or a county containing a city of the first class may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(5) The county or city shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other ***prior or*** subsequent liens, except state, county, school board ***and general municipal taxes, and any lien for municipal assessments, and shall not be defeated or postponed by any private or judicial sale*** [~~and city taxes, and may be enforced by judicial proceeding~~].

(6) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties and other charges and the city or county may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(7) ***The city or county shall be entitled to recover its costs incurred as a result of any legal action taken to foreclose on any lien granted under this section or to pursue a personal action against a property owner to recover the amount of the lien.***

***(8)*** The provisions of subsections (4), (5) and (6) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

HB 845, AN ACT relating to transferable development rights.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

***(1) Any city, county, or urban-county government which is part of a planning unit may provide, by ordinance, for:***

***(a) The voluntary transfer of the development rights permitted on one (1) parcel of land to another parcel of land;***

***(b) Restricting or prohibiting further development of the parcel from which development rights are transferred; and***

***(c) Increasing the density or intensity of development of the parcel to which such rights are transferred.***

***(2) The ordinance shall designate and show on the zoning map areas from which development rights may be transferred and areas to which such rights may be transferred and used for development. These zones may be designated as separate use districts or as overlaying other zoning districts.***

***(3) Any city within a county that adopts an ordinance providing for the transfer of development rights, may also adopt a transfer of development rights ordinance and the county and city by adoption of mutual provisions may provide for the transfer of development rights on land located in one to land located in another.***

***(4) "Transferable development rights" means an interest in real property that constitutes the right to develop and use property under the zoning ordinance which is made severable from the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with the zoning ordinance. Transferable development rights may be transferred by deed from the owner of the parcel from which the development rights are derived and upon the transfer shall vest in the grantee and be freely alienable. The zoning ordinance may provide for the method of transfer of these rights and may provide for the granting of easements and reasonable regulations to effect and control transfers and assure compliance with the provisions of the ordinance.***

SB 17, AN ACT relating to the Kentucky Retirement Systems.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System and State Police Retirement System shall be administered by the Board of Trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) ***The state local finance officer shall serve as trustee for as long as he occupies the position of state local finance officer under KRS 147A.020, except as provided under subsections (5) and (6) of this section;***

***(c)*** Two (2) trustees, who must be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

***(d)***[~~(c)~~] One (1) trustee, who must be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

***(e)***[~~(d)~~] Two (2) trustees, who must be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; [~~and~~]

***(f) Two (2)*** [~~(e)~~ ~~Three (3)~~] trustees, appointed by the Governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978***;***

***(d) The state local finance officer shall have an initial term beginning on April 1, 1992.***

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel ***or the state local finance officer*** resign his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employees as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of said board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the Attorney General may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant,

the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred twenty (120) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky retirement systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

**SB 211,** AN ACT relating to overlay districts in cities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

*(1) "Major structural change" means structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty percent (50%) of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure of the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost; and*

*(2) "Ordinary repairs" means nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, and shall include but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement that does not alter the structural integrity, alter the occupancy or use of the building, or affect by rearrangement, exitways and means of egress.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

*(1) A city legislative body may by ordinance create one (1) or more overlay districts to provide additional regulations for design standards and development within any area of the city determined to be:*

*(a) An area that has historical, architectural, natural, or cultural significance that is suitable for preservation or conservation; or*

*(b) An area that is located near a river or other body of water, or along an established commercial corridor that has a special character related to the location that is suitable for conservation.*

*(2) Upon the establishment of an overlay district, development within the area shall conform to all zoning regulations applicable to the area and shall also conform to all overlay district regulations.*

*(3) An ordinance establishing an overlay district shall, at a minimum, include the following provisions:*

*(a) An accurate description of the boundaries of the district;*

*(b) A description of the historical, architectural, cultural, aesthetic, natural, or other distinctive characteristics of the district that is to be preserved or conserved;*

*(c) A delegation of responsibility for the administration of overlay regulations to an appropriate entity of city government pursuant to Section 4 of this Act;*

*(d) The standards, guidelines, or criteria that shall govern development within the district to preserve, conserve, or protect the historical, architectural, cultural, aesthetic, or other distinctive characteristics of the district. These standards, guidelines, or criteria may be set out descriptively in the ordinance or by illustration, and may incorporate by reference established architectural standards or guidelines; and*

*(e) Any city participating in the Certified Local Government Historic Preservation Program shall comply with the regulations of the Kentucky Heritage Commission.*

*(4) Upon the effective date of the establishment of an overlay district, no person shall begin any major structural change or any ordinary repairs to any building or structure within an overlay district until the city has issued a permit, without cost, certifying that the person has complied with the provisions of the overlay district regulations governing the district. This prohibition shall not apply to emergency repairs that need to be made to a building within an overlay district.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

*A city may, in the ordinance that creates an overlay district, delegate the authority for review of design standards and development proposals within the district to the local planning commission. However, if the city delegates authority for review of development proposals pursuant to this section, overlay district regulations shall not be adopted as zoning regulations and the local planning commission shall not have any jurisdiction over the adoption or enforcement of overlay district regulations.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

*(1) A city may, in the ordinance that creates an overlay district, delegate the responsibility for the administration of overlay district regulations governing the district to a designated department or agency of the city, or to a nonprofit corporation established by the city pursuant to KRS Chapter 58. Overlay district regulations shall not conflict with the zoning regulations for the district and shall not permit uses prohibited by underlying zoning regulations or prohibit uses permitted by underlying zoning regulations. Overlay district regulations shall supplement underlying zoning regulations by establishing additional design standards, guidelines, and criteria for development within the district to preserve, conserve, or protect the historical, cultural, architectural, aesthetic, or other distinctive characteristics of the district.*

*(2) If a city delegates the responsibility for the administration of overlay district regulations pursuant to subsection (1) of this section, the ordinance establishing the district shall, in addition to the provisions of Section 2 of this Act, contain the following provisions:*

*(a) A requirement that the designated department or agency of the city, or KRS Chapter 58 nonprofit corporation that has been delegated responsibility for administration of overlay district regulations, shall establish a body to assist in the review of design standards and development proposals that shall be composed of persons possessing expertise in architecture, urban design, urban planning, historic preservation, or other appropriate fields; and*

*(b) A procedure for the review of proposed development within the district that shall provide for adequate notice, public hearings, and timely consideration of applications.*

*(3) Any person or entity claiming to be injured or aggrieved by any final action of a city department, city agency, or KRS Chapter 58 nonprofit corporation that has been delegated responsibility for administration of overlay district regulations shall have a right of appeal from the final action to the circuit court of the county in which the city is located. The ordinance establishing the district may provide that any person or entity claiming to be injured or aggrieved by any final action shall first appeal to the city legislative body and that the decision of the city legislative body shall be the action appealable to the circuit court. The appeal from the final action of the city department, city agency, or KRS Chapter 58 nonprofit corporation shall be taken within thirty (30) days of the date of such final action. Final action shall be deemed to have occurred when the city department, city agency, or KRS Chapter 58 nonprofit corporation has issued a written finding of fact stating the reasons for rejection of a development proposal.*

*(4) If the local planning commission has approved the location of structures for a development proposal that complies with underlying zoning regulations for the overlay district, the city department or agency or KRS Chapter 58 nonprofit corporation delegated administration of overlay district regulations shall be prohibited from requiring a change in the location of these structures without first obtaining approval from the local planning commission.*

*(5) Any city legislative body that creates an overlay district pursuant to this Act shall hold a public hearing prior to final adoption of the ordinance establishing the district. Notice of the public hearing shall be published pursuant to KRS Chapter 424 and an owner of every parcel of property within the proposed district shall be notified by first class mail. Records of the county property valuation administrator may be relied upon to determine the identities and addresses of the property owners.*

*(6) The boundaries of an overlay district shall not be altered except by following the same procedure required for the establishment of an overlay district.*

The Committee Substitute to SB 211 is as follows:

SB 211, AN ACT relating to overlay districts in cities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

*As used in this Act, unless the context otherwise requires:*

*(1) "Major structural change" means structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty percent (50%) of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost; and*

*(2) "Ordinary repairs" means nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, and shall include but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement that does not alter the structural integrity, alter the occupancy or use of the building, or affect by rearrangement, exitways and means of egress.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

*(1) A city legislative body, except for urban-county governments, may by ordinance create one (1) or more overlay districts pursuant to this Act to provide additional regulations for design standards and development within any area of the city determined to be:*

*(a) An area that has historical, architectural, natural, or cultural significance that is suitable for preservation or conservation; or*

*(b) An area that is located near a river or other body of water, or along an established commercial corridor that has a special character related to the location that is suitable for conservation.*

*(2) Upon the establishment of an overlay district, development within the area shall conform to all zoning regulations applicable to the area and shall also conform to all overlay district regulations.*

*(3) An ordinance establishing an overlay district shall, at a minimum, include the following provisions:*

*(a) An accurate description of the boundaries of the district;*

*(b) A description of the historical, architectural, cultural, aesthetic, natural, or other distinctive characteristics of the district that are to be preserved or conserved;*

*(c) A delegation of responsibility for the administration of overlay regulations to an appropriate entity of city government pursuant to Section 3 of this Act;*

*(d) The standards, guidelines, or criteria that shall govern development within the district to preserve, conserve, or protect the historical, architectural, cultural, aesthetic, or other distinctive characteristics of the district. These standards, guidelines, or criteria may be set out descriptively in the ordinance or by illustration, and may incorporate by reference established architectural standards or guidelines; and*

*(4) Any city participating in the Certified Local Government Historic Preservation Program shall comply with the regulations of the Kentucky Heritage Commission.*

*(5) Upon the effective date of the establishment of an overlay district, no person shall begin any major structural change or any ordinary repairs to any building or structure or change or create any surface parking lot, or clear a parcel or lot of trees or other major vegetation, or change the appearance to signage within an overlay district until the city has issued a permit, without cost, certifying that the person has complied with the provisions of the overlay district regulations governing the district. This prohibition shall not apply to emergency repairs that need to be made to a building or structure within an overlay district.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

*(1) A city establishing an overlay district under this Act, shall, in the ordinance that creates the overlay district, delegate the responsibility for the administration of overlay district regulations to a department or agency of the city, or to a nonprofit corporation established by the city pursuant to KRS Chapter 58. Overlay district regulations shall not conflict with the zoning regulations for the district and shall not permit uses prohibited by underlying zoning regulations or prohibit uses permitted by underlying zoning regulations. Overlay district regulations shall supplement underlying zoning regulations by establishing additional design standards, guidelines, and criteria for development within the district to preserve, conserve, or protect the historical, cultural, architectural, aesthetic, or other distinctive characteristics of the district.*

*(2) The ordinance establishing the district shall, in addition to the provisions of Section 2 of this Act, contain the following provisions:*

*(a) A requirement that the designated department or agency of the city, or KRS Chapter 58 nonprofit corporation that has been delegated responsibility for administration of overlay district regulations, shall establish a body to assist in the review of design standards and development proposals that shall be composed of persons possessing expertise in architecture, urban design, urban planning, historic preservation, or other appropriate fields; and*

*(b) A procedure for the review of proposed development within the district that shall provide for adequate notice, public hearings, and timely consideration of applications.*

*(3) Any applicant denied a permit under Section 2, subsection 4 of this Act shall have a right of appeal from such written denial to the circuit court of the county in which the city is located. The ordinance establishing the district may provide that any applicant shall first appeal such written denial to the city legislative body and that the decision of the city legislative body shall be the action appealable to the circuit court. The appeal from the denial of the city legislative body shall be taken within thirty (30) days of the date of such written denial.*

*(4) Any city legislative body that creates an overlay district pursuant to this Act shall hold a public hearing prior to adoption of the ordinance establishing the district. Notice of the public hearing shall be published pursuant to KRS Chapter 424 and an owner of every parcel of property within the proposed district shall be notified by first class mail. Records of the county property valuation administrator may be relied upon to determine the identities and addresses of the property owners.*

*(5) The boundaries of an overlay district shall not be altered except by following the same procedure required for the establishment of an overlay district.*

**SB 224,** AN ACT relating to the establishment of management districts in cities of the first class.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***(1) "Economic improvement" means any activity or service for the improvement and promotion of a management district that is of special benefit to property within the district, but shall not include any service ordinarily provided throughout the city from general fund revenues unless an increased level of the service is provided in the management district;***

***(2) "City" means a city of the first class;***

***(3) "Legislative body" means the legislative body of a city of the first class;***

***(4) "Management district" means an area designated by a legislative body pursuant to this Act, that is to be benefited by economic improvements and subjected to the payment of special assessments for the costs of the economic improvements;***

***(5) "Property" means any real property benefited by economic improvements;***

***(6) "Special assessment" means a special charge fixed on property to finance economic improvements in whole or in part; and***

***(7) "Fair basis" means assessed value basis, front foot basis, square foot basis or benefits received basis.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

***A city of the first class may establish one (1) or more management districts pursuant to this Act, for the purpose of providing and financing economic improvements that specially benefit property within the management district.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

***(1) A city may initiate proceedings to establish a management district upon receipt by the mayor of a written petition requesting the formation of a management district. A petition requesting the formation of a management district shall contain:***

***(a) The signatures and addresses of at least thirty-three percent (33%) of the owners of real property within the proposed management district and a number of real property owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the proposed management district;***

***(b) An accurate description of the boundaries of the proposed management district;***

***(c) An economic improvement plan that shall provide:***

***1. A description of the economic improvements to be provided within the district;***

***2. A preliminary estimate of the annual costs of the proposed economic improvements; and***

***3. The proposed method of assessing the costs of the economic improvements against the properties;***

***(d) The proposed makeup of the board of directors of the management district, its powers and duties; and***

***(e) The number of years in which the assessments are proposed to be levied, not to exceed five (5) years.***

***(2) When a petition satisfying the requirements of subsection (1) of this section is received by the mayor, he shall forward it to the legislative body which may proceed to enact an ordinance establishing a management district as provided in Section 4 of this Act.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

***(1) An ordinance establishing a management district shall include, but not be limited to, the following provisions:***

*(a) An accurate description of the boundaries of the management district designated either by map or perimeter description;*

*(b) A description of the economic improvements that may be undertaken within the management district by its board of directors, including but not limited to:*

*1. The planning, administration and management of development or improvement activities;*

*2. Landscaping, maintenance and cleaning of public ways and spaces;*

*3. The promotion of commercial activity or public events;*

*4. The conduct of activities in support of business recruitment and development;*

*5. The provision of security for public areas;*

*6. The construction and maintenance of capital improvements to public ways and spaces; and*

*7. Any other economic improvement activity that specially benefits property;*

*(c) A requirement that the legislative body approve the annual budget and annual economic improvement plan for the district and establish a procedure and schedule for such approval;*

*(d) The method of assessment of the properties that may include any fair basis authorized by KRS 91A.200 through 91A.290;*

*(e) The method for collection of the assessment;*

*(f) The number of years, not exceeding five (5) years, in which the assessments shall be levied;*

*(g) A method by which the annual increase in assessments caused by inflation, new growth and other factors shall be limited;*

*(h) The makeup of the board of directors for the management district and its powers and duties; and*

*(i) Any other provisions deemed necessary by the legislative body to implement the provisions of this Act.*

*(2) After the first reading of the ordinance to establish the management district, but prior to its second reading and passage, a public hearing on the question of the establishment of the management district shall be held by the legislative body.*

*(3) A summary of the proposed plan for the management district shall be published in a newspaper in accordance with KRS Chapter 424 no less than twice, at least seven (7) but not earlier than twenty-one (21) days before the date of the public hearing. Notice shall also specify the date, time and place of the hearing. In addition, a copy of the proposed ordinance and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed management district.*

*(4) After the public hearing, the legislative body may give second reading to the ordinance that shall become effective if passed and approved pursuant to KRS 83.500.*

*(5) After the establishment of a management district, the legislative body shall not decrease the level of publicly funded services in the management district existing prior to the creation of the district or transfer the burden of providing the services, unless the services at the same time are decreased throughout the city.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

*(1) Upon the effective date of the ordinance establishing the management district, a board of directors shall be appointed and shall proceed to implement the economic improvement plan adopted by the legislative body.*

*(2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board of directors shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the plan and budget to the legislative body for its approval.*

*(3) Upon approval of the economic improvement plan and annual budget, the board of directors shall publish both pursuant to KRS Chapter 424 and shall mail by first class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.*

*(4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.*

*(a) The board of directors may be directed to annually prepare and mail by first class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or*

*(b) The annual assessment may be collected in the same manner, at the same times and by the office authorized by law for the collection and enforcement of general city taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board of directors. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.*

*(c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his property. The contest shall be filed with the board of directors within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board of directors and present evidence. A record shall be made of the proceedings and the board of directors shall render a written decision. The decision of the board of directors may be appealed to the circuit court of the county in which the city is located.*

*(5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city legislative body or the board of directors of the management district shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

*(1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by a board of directors.*

*(2) The number of members of the board of directors, their terms and qualifications, shall be established by the ordinance creating the district. No fewer than a majority of the board shall be property owners within the district. The board members shall be appointed by the mayor of the city, with the approval of the legislative body.*

*(3) The powers of the board of directors shall include all powers set forth in this Act and the ordinance establishing the management district. The board of directors may employ or contract with persons to assist it in its responsibilities.*

*(4) The board of directors shall manage the fiscal affairs of the management district and shall adopt rules and regulations governing the investment and disbursement of funds. The board of directors may borrow money on a short term basis as required. The board of directors may hold funds in the name of the management district or may designate the city as the fiscal agent for the management district. Money derived from the assessments imposed pursuant to this Act shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes. As soon as practicable after the close of the fiscal year, the board of directors shall cause an audit to be performed of all funds of the management district by a certified public accountant.*

*(5) In addition to receiving funds from assessments, the board of directors shall be authorized to receive grants, donations and gifts.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

*(1) The boundaries of the management district may be changed at any time by the legislative body in the same manner as provided in this Act for the establishment of the management district.*

*(2) The management district may be renewed for subsequent periods, not to exceed five (5) years, by the legislative body. Prior to such renewal, the board of directors shall prepare an economic improvement plan for the renewal period. The ordinance establishing the management district may provide for automatic renewals if the economic improvement plan is prepared for the renewal period. The management district shall not be renewed if a petition is received that objects to the renewal and is signed by a number of real property owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the management district.*

***(3) The management district shall be dissolved by the legislative body upon the receipt of a petition requesting dissolution that is signed by a number of real property owners who together are the owners of real property within the management district equal to at least seventy-five percent (75%) of the assessed value of the property within the management district.***

***(4) If a management district is terminated or not renewed for a subsequent period, and after the payment of all obligations and costs of administration incurred on behalf of the management district, there remain excess funds from assessments paid by property owners, then the city, by ordinance, shall provide for:***

***(a) The return of the excess funds to the owners of properties in amounts proportionate to the amounts of the assessments they paid for the district; or***

***(b) Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or***

***(c) Use of part of the excess funds for continued provision of economic improvements and return of the balance of the excess funds in proportionate amounts to affected property owners.***

**SB 289,** AN ACT relating to the classification of cities.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Radcliff, in Hardin County, is such as to justify its being classified as a city of the second class.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The City of Radcliff, in Hardin County, is transferred from the fourth to the second class of cities.

**SB 340,** AN ACT relating to governmental databases.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***(1) "Database" means any group of records, electronically stored, that can be retrieved by a computer and includes any software that builds, maintains, and provides access to such records;***

***(2) "Geographic information system" means an entire formula, pattern, compilation, program, device, method, technique, process, digital database or system which electronically records, stores, reproduces, and manipulates by computer geographic and factual information which has been provided from other sources and compiled for use by a public agency, either alone or in cooperation with other public or private entities;***

***(3) "Commercial purpose" means the direct or indirect use of all or any part of a database or a geographic information system, in any form, for sale; resale; solicitation; sale, rent, or lease of a service; or any commercial venture. "Commercial purpose" shall not include:***

***(a) Publication, broadcast, or other related use of a database or a geographic information system by a newspaper or periodical; or***

***(b) Use of a database or a geographic information system by a radio or television station in its news or other informational programs.***

***(4) "Public agency" means every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***This Act shall apply to public agencies which alone or in cooperation with utilities or other public entities, create and own a database or a geographic information system.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***(1) A person who requests a copy of all or any part of a database or a geographic information system, in any form for a commercial purpose shall provide a certified statement stating the commercial purpose for which it shall be used.***

***(2) Such person shall enter into a contract with the owner of the database or the geographic information system. The contract shall permit use of the database or the geographic information system for the stated commercial purpose for a specified fee. The fee shall be based on the:***

***(a) Cost to the public agency of time, equipment, and personnel in the production of the database or the geographic information system;***

***(b) Cost to the public agency of the creation, purchase, or other acquisition of the database or the geographic information system; and***

***(c) Value of the commercial purpose for which the database or geographic information system is to be used.***

***(3) It shall be unlawful for a person to obtain a copy of all or any part of a database or a geographic information system for a:***

***(a) Commercial purpose without stating the commercial purpose; or***

***(b) Specified commercial purpose, and to use or to knowingly allow the use of the database or the geographic information system for a different commercial purpose; or***

***(c) Noncommercial purpose, and to use or to knowingly allow the use of the database or the geographic information system for a commercial purpose. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the database or the geographic information system for a commercial purpose as a result of its publication or broadcast unless it has given its express permission for such commercial use.***

***(4) Notwithstanding any other provision of law, a database or a geographic information system shall be exempt from public disclosure under the provision of KRS 61.872, if such request is for a commercial purpose.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***Public records stored on a database or a geographic information system which are subject to KRS 61.870 to 61.884, but are not requested for a commercial purpose, shall be made available for inspection to the public upon request in the following manner:***

***(1) Upon request, a party may inspect the public records through electronic access to the database or the geographic information system at the offices of the public agency. Such records shall be available for copying either in paper form, in a size not less than 8 1/2" by 11", in at least one (1) color on white paper; or, in a flat file electronic American Standard Code for Information Interchange (ASCII) format, as designated by the party requesting the records, either at a reasonable fee not to exceed the actual cost of copying, not including the cost of staff time.***

***(2) A public agency, acting alone or in cooperation with other public agencies or private parties, when providing services and products available through a database or a geographic information system, which services and products require the creation of non-standardized unique, custom-made records, may impose and collect reasonable fees for creating such products. For purposes of this section, any request for a public record in a form other than the form described in subsection (1) of this section, shall be considered non-standardized. Fees under this subsection shall not exceed the reasonable cost of computer and personnel time and printing cost needed to produce such products.***

***(3) If a party wishes to access by electronic means the database or the geographic information system software programming source codes, object codes and geocoded digital database or systems, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for such agreements, which fees shall not exceed the cost of physical connection to the system and the reasonable cost of computer time access charges.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

***A person who violates any provision of this Act shall be liable to the public agency from which the database or the geographic information system was obtained for damages in the amount of:***

***(1) Three (3) times the amount that would have been charged for the database or the geographic information system if the actual commercial purpose for which it was obtained or used had been stated;***

***(2) Costs and reasonable attorneys' fees; and***

***(3) Any other penalty established by law.***

The Committee Amendment No. 1 to **SB 340** is as follows:

Amend printed copy of **SB 340** on page 1, delete lines 7 and 8 in their entirety and insert in lieu thereof "***but shall not include electronically stored records of the Kentucky Geological Survey;***"; and

On page 1, delete lines 17 through 20 in their entirety and insert in lieu thereof the following:

"***(3)(a) "Commercial purpose" means:***

***1. The direct or indirect use of all or any part of a geographic information system, in any form, for sale; resale; solicitation; sale, rent, or lease of a service; or any commercial venture; or***

***2. The direct or indirect use of all or any part of a database, in any form, for sale, resale, solicitation, rent, or lease.***"; and

On page 1, line 21, delete "***or any commercial venture.***" and insert in lieu thereof "***(b)***"; and

On page 2, line 2, delete "***(a)***" and insert in lieu thereof "***1.***"; and

On page 2, line 5, delete "***(b)***" and insert in lieu thereof "***2.***"; and

On page 4, line 23, after "***(1)***" delete the remainder of line 23; and

On page 4, delete lines 24 and 25 in their entirety; and

On page 4, line 26, delete "***agency.***".

**SCR 105**, A CONCURRENT RESOLUTION creating a task force to study extension of city water service throughout Jefferson County.

WHEREAS, the General Assembly realizes the extreme importance of water resources to the health and welfare of all Kentuckians; and

WHEREAS, the task force provides a vehicle for discussion of city water service issues existing throughout Jefferson County and its importance to the development of Kentucky's water resource; and

WHEREAS, the General Assembly recognizes the need for the development and expansion of city water services throughout Jefferson County on a timely and affordable basis; and

WHEREAS, the General Assembly realizes that this is a complex issue, involving several constituencies and will require extensive fact finding;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Legislative Research Commission intending to obtain information and determine facts about the extension of city water service throughout Jefferson County, shall appoint the following thirteen (13) members to the task force. One (1) co-chair shall be the mayor of Louisville or his designee, the other co-chair shall be the Jefferson County judge/executive or his designee. The remaining members shall be one (1) county commissioner, one (1) member of the Louisville Board of Aldermen, one (1) representative of the Louisville Water Company, one (1) representative of the Jeffersontown Water and Wastewater Department, two (2) members of the Senate, two (2) members of the House of Representatives, one (1) chief of a county volunteer fire department whose district has portions not substantially within the Louisville Water Company System, one (1) board member of the Louisville and Jefferson County Metropolitan Sewer District, and one (1) board member, (but not the chairman) of the Louisville and Jefferson County Planning and Zoning Commission. The four (4) members of the General Assembly shall consist of one (1) member of the Senate and one (1) member of the House of Representatives residing in Jefferson County whose district has portions not substantially within the Louisville Water Company System. The other members of the General Assembly shall be residents of Jefferson County, whose districts are substantially within the Louisville Water Company System.

Section 2. The task force shall develop a plan for extending Louisville Water Company service to currently unserved residents of Jefferson County within the next ten (10) years. The task force shall also develop a long-term plan for the eventual extension of water service throughout Jefferson County, following accepted principles for sound land-use planning and planned growth and development.

The plan for extending water service to currently unserved residents of Jefferson County shall be presented for adoption to the Louisville Board of Aldermen and the Jefferson County Fiscal Court by December 31, 1990. A copy shall be presented to the Legislative Research Commission. The long-term plan for extending water service throughout Jefferson County shall be presented to these same bodies by September 1, 1991. Both plans shall include reasonable timetables for implementation, an outline of responsibilities, and financing for the extension of service.

Every effort shall be made by the task force to present a plan for extending water service to currently unserved residents of Jefferson County in which the cost incurred by the residential property owners is kept at a realistic and affordable level. The financing of such extension of service to currently unserved residences shall not unduly burden the existing customers of the Louisville Water Company.

Section 3. That the task force shall obtain information from any public or private source for the purpose of determining the facts in relation to the extension of city water service throughout Jefferson County.

Section 4. That any public or private source shall report information to the task force as requested.

Section 5. That Legislative Research Commission staff shall be assigned to the task force.

Section 6. That each member of the task force assign a support staff person from their agency to work with the task force to assure the task force can accomplish its purpose.

Section 7. That the members of the task force shall be reimbursed their expenses in attending meetings.

Section 8. That the Legislative Research Commission staff services to be utilized in the conduct of this effort are estimated to cost $24,000, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the Commission.

**SCR 109**, A CONCURRENT RESOLUTION directing the Cities Committee of the Legislative Research Commission to study the state enterprise zone program during the 1990-91 interim.

WHEREAS, the Commonwealth is currently facing a severe budget deficit and a court ordered mandate to equalize funding for Kentucky's schools; and

WHEREAS, recent news articles have documented abuses of the tax exemptions provided under the enterprise zone statutes; and

WHEREAS, the Senate Cities Committee, in conjunction with the State Enterprise Zone Authority and the Kentucky Revenue Cabinet, is currently preparing legislation, **SB 153**, to end these and other reported abuses that are detrimental to a vital economic development tool; and

WHEREAS, if enacted **SB 153** will create an experimental zone to be used solely to provide housing for low to moderate income persons and homeless persons, as well as create an additional four enterprise zones; and

WHEREAS, **SB 153** also proposes strict control over the tax exemptions currently available under the enterprise zone program; and

WHEREAS, the General Assembly has not examined the enterprise zone program since the enabling legislation was enacted in 1982;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Cities Committee of the Legislative Research Commission conduct an in-depth study of the state enterprise zone program during the 1990-91 interim.

Section 2. That the focus of the study shall be to determine the effectiveness of the overall enterprise zone program to create new economic activity, the fiscal impact of the current tax exemptions provided under KRS 154.690 have on state revenues; and the effect of **SB 153**, if enacted by the 1990 General Assembly, on the enterprise zone program and its effectiveness in ending abuses of the tax exemptions provided under KRS 154.690.

Section 3. Staff services to be utilized in the study are estimated to cost $25,000. Staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

**SB 181,** AN ACT relating to the classification of cities.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of South Shore, in Greenup County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The City of South Shore, in Greenup County, is transferred from the sixth to the fifth class of cities.

**SB 144,** AN ACT relating to land bank authorities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS 91.800 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) "Authority" means the land bank authority established pursuant to KRS 65.210 to 65.300 and ***this Act*** [~~KRS 91.805 to 91.820~~];

(2) "Agreement" means the interlocal cooperation agreement entered into by the parties pursuant to KRS 65.210 to 65.300 and ***this Act*** [~~KRS 91.805 to 91.820~~];

(3) ***"Local government" means every city, regardless of classification, every county, and every urban-county government;***

***(4)*** "Parties" means the parties to the agreement, ***that*** [~~which~~] shall include any ***local government*** [~~city of the first class, any county containing a city of the first class~~], the local school district within the county and the Commonwealth of Kentucky;

***(5)***[~~(4)~~] "Property" means real property, including any improvements thereon; and

***(6)***[~~(5)~~] "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable.

SECTION 2. KRS 91.805 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) Any ***local government*** [~~city of the first class, the county containing the city~~], the local school district within the county and the Commonwealth of Kentucky may enter into an interlocal cooperation agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land bank authority pursuant to ***this Act*** [~~KRS 91.800 to 91.820~~].

(2) The authority shall be a public body corporate and politic with the power to sue and be sued, [~~and~~] issue deeds in its name and any other powers necessary and convenient to carry out these powers or ***that*** [~~which~~] may be granted to the authority by the parties.

(3) The authority shall be established to acquire the tax delinquent properties of the parties in order to foster the public purpose of returning land ***that*** [~~which~~] is in a non-revenue generating, non-tax producing status to effective utilization in order to provide housing, new industry and jobs for the citizens of the county. The authority shall have the powers provided in ***Sections 5 and 6 of this Act*** [~~KRS 91.815, 91.820~~] and in the interlocal cooperation agreement.

SECTION 3. KRS 91.810 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board composed of ***one (1) member appointed by each unit of local government that is a party to the agreement*** [~~four (4) members, one (1) appointed by the mayor of the city of the first class, one (1) appointed by the county judge/executive of the county~~], one (1) ***member*** appointed by the superintendent of schools of the county school district and one (1) ***member*** appointed by the Governor. Each member shall serve at the pleasure of the respective appointing authority for a term of four (4) years and shall serve without compensation. The members shall be residents of the county and may be employees of the parties and shall serve without additional compensation. Any vacancy shall be filled in the same manner as the original appointment.

(2) The board of the authority shall meet [~~from time to time~~] as required, and three (3) members shall constitute a quorum. Approval by a majority of the membership shall be necessary for any action to be taken by the authority. All meetings shall be open to the public, except as otherwise permitted by KRS 61.810, and a written record shall be maintained of all meetings. A chairman shall be elected from among the members, and he shall execute all deeds, leases and contracts of the authority when authorized by the board.

(3) The authority may employ its own staff or may utilize employees of the parties, as determined by the agreement.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

***(1) Upon the creation of a land bank authority, the authority shall maintain a mailing list of city, county, or regional housing authorities, and the Kentucky Housing Corporation, that have requested to be notified prior to any action by the authority to dispose of property in its inventory. It shall be the responsibility of an interested housing authority to provide the authority with the following information:***

***(a) Name of the organization;***

***(b) Mailing address for the organization; and***

***(c) The name and title of a contact person for the organization.***

SECTION 5. KRS 91.815 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) The authority shall hold in its own name, for the benefit of the parties, all properties conveyed to it by the parties, all tax delinquent properties acquired by it pursuant to this section, and all properties otherwise acquired.

(2) It shall be the duty of the authority to administer the properties acquired by it, as follows:

(a) All property acquired by the authority shall be inventoried and appraised and the inventory shall be maintained as a public record;

(b) The authority shall organize and classify the property on the basis of suitability for use;

(c) The authority shall maintain all property held by it in accordance with applicable laws and codes; and

(d) The authority shall have the power to manage, maintain, protect, rent, lease, repair, insure, alter, sale, trade, exchange or otherwise dispose of any property on terms and conditions ***as*** determined ***by this Act and by*** [~~in the sole discretion of~~] the authority. The authority may assemble tracts or parcels of property for public parks or other public purposes, and to that end may exchange parcels, and otherwise effectuate the purposes by agreement with any party.

***(3) Before the authority may rent, lease, sell, trade, exchange, or otherwise dispose of any property it shall:***

***(a) Establish a price for rent or lease purposes;***

***(b) Establish a purchase price for sale purposes; or***

***(c) Establish the conditions for trade, exchange, or other disposal of the property.***

***(4) The authority shall publish pursuant to KRS Chapter 424, the information required pursuant to subsection (3) of this section, at least thirty (30) days before any property may be disposed of from the inventory. Immediately following publication the authority shall notify by first class mail all housing authorities on the mailing list required pursuant to Section 4 of this Act of the authority's intent to dispose of a specified property and the established price to rent, lease, or purchase the property, or the conditions for trade, exchange, or other disposal of the property.***

***(5) No property shall be acquired pursuant to this Act by any entity for investment purposes only and with no intent to use the property other than to transfer the property at a future date for monetary gain.***

***(6) No property acquired by a housing authority pursuant to this Act shall be transferred to a similar group without prior approval of the authority.***

***(7)***[~~(3)~~] The acquisition and disposal of property by the authority shall not be governed or controlled by any regulations or laws of the parties, unless specifically provided in the agreement.

***(8)***[~~(4)~~] No property located within the ***boundaries of a local government*** [~~city of the first class~~] may be sold, traded, exchanged or otherwise disposed of, unless the transaction is approved by the member appointed by the ***affected local government*** [~~mayor of the city of the first class. No property located within the county, but outside the city of the first class, may be sold, traded, exchanged or otherwise disposed of, unless the transaction is approved by the member appointed by the county judge/executive~~].

SECTION 6. KRS 91.820 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 65 AND AMENDED TO READ AS FOLLOWS:

(1) If any party obtains a judgment against a tax delinquent property within the county for the taxes and, to satisfy the judgment, the property is ordered sold at a tax sale pursuant to KRS 91.504, 134.190 or other provision of the Kentucky Revised Statutes, if no person bids an amount equal to the full amount of all tax bills, interest, and costs owing on the property at the sale, the authority shall be deemed to have bid the full amount of all tax bills, interest, and costs due ***to all parties of the authority regardless of whether or not they are all parties to the lawsuit. The authority shall not be required to make actual payment to the court for the amount deemed to have been bid. The court, notwithstanding any other provision of law, shall treat the amount deemed to have been bid as cash received.*** [~~, and~~] Upon proper motion by the authority, the ***court*** [~~master commissioner~~] shall make a deed of the property to the "Land Bank Authority." The title to the property shall be an absolute estate in fee simple, ***free and clear of all tax bills, interests and costs owing to the parties of the authority but shall be*** subject to rights of way of public utilities on which tax has otherwise been paid and subject to any right of redemption of the United States of America, if any.

(2) When a property is acquired by the authority, all state, county, ***city, and*** school district [~~and city of the first class~~] taxes shall be extinguished.

(3) At the time that the authority sells or otherwise disposes of property as part of its land bank program, the proceeds from the sale shall be distributed to the parties in proportion to their respective tax bills and costs. Conveyance of a property to a party shall not constitute disposal.

## Calendar

**HB 660, SB 199, SB 274, HB 814, HB 168, HB 647, HB 865, HB 908, HB 924, HB 926, HJR 183, HB 634, HB 693, HCR 166, SB 174, HB 816, HB 881, SB 169, HCR 182, HCR 186, SB 178, SB 275** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

## Consent Calendar

**SB 134, SB 186, SB 200, HB 346, HB 802, SB 41, SB 297, SB 298** and **SCR 55** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

## Orders of the Day

**HB 758**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 758**. Agreed.

Representative Adkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 758**. Agreed.

Representative Brown moved that **HB 758**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 68, Nays 27. (See March 15, 1990 roll call on **HB 758** - Appendix.)

**HB 758**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 758**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 796**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved the adoption of Committee Substitute to **HB 796**. Agreed.

Representative Walker moved that **HB 796**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 79, Nays 13. (See March 15, 1990 roll call on **HB 796** - Appendix.)

**HB 796**, by way of Committee Substitute, was passed and the title agreed to.

Representative Walker moved that the vote by which **HB 796**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 839**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of Committee Substitute to **HB 839**. Agreed.

Representative Reinhardt moved that **HB 839**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See March 15, 1990 roll call on **HB 839** - Appendix.)

**HB 839**, by way of Committee Substitute, was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 839**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 15**, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Substitute to **HB 15**. Agreed.

Representative Callahan moved that **HB 15**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 71, Nays 23. (See March 15, 1990 roll call on **HB 15** - Appendix.)

**HB 15**, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 15**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 429**, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 429**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 429**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 429**.

Representative Farrow inquired whether Floor Amendment No. 3 to the Committee Substitute to **HB 429** was a piggyback.

The Speaker ruled that Floor Amendment No. 3 to the Committee Substitute to **HB 429** was not a piggyback.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Curtsinger, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, Ridley, Riner, Scorsone, Siler, B. Smith, Stokes, Strong, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 1—Stumbo.

Floor Amendment No. 3 to the Committee Substitute to **HB 429** was adopted.

Representative Lear moved that **HB 429**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 33. (See March 15, 1990 roll call on **HB 429** - Appendix.)

**HB 429**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 429**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 461**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 461**. Agreed.

Representative Deskins moved that **HB 461**, as amended, be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See March 15, 1990 roll call on **HB 461** - Appendix.)

**HB 461**, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 461**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 676**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 676**. Agreed.

Representative Deskins moved that **HB 676**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 15, 1990 roll call on **HB 676** - Appendix.)

**HB 676**, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 676**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 495**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Floor Amendment No. 1 to **HB 495**. Agreed.

Representative A. Jones moved that **HB 495**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 15, 1990 roll call on **HB 495** - Appendix.)

**HB 495**, as amended, was passed and the title agreed to.

Representative A. Jones moved that the vote by which **HB 495**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

### Senate Message

Announcing passage of **SB 39**, **SB 209**, **SB 349**, **SB 355**, **SB 363**, **SB 405**, **SCR 112**, **HB 342**, **HB 399**, **HB 423**, **HB 581**, **HB 586**, **HJR 57**, **HJR 119** and **HJR 120**.

**HB 544** returned with the following message: The Senate has receded from its Amendment No. 1 to **HB 544** and is respectfully returning same to this Honorable Body for enrollment.

**HB 443** returned with the following message: The Senate has receded in its Floor Amendments No. 2 and No. 3 to **HB 443** and is respectfully returning same to this Honorable Body for enrollment.

### Orders of the Day (Continued)

**HB 841** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved that **HB 841** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 15, 1990 roll call on **HB 841** - Appendix.)

**HB 841** was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 841** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 840** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved that **HB 840** be passed.

On the roll call the vote was: Yeas 71, Nays 17. (See March 15, 1990 roll call on **HB 840** - Appendix.)

**HB 840** was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 840** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 735** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **HB 735** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 15, 1990 roll call on **HB 735** - Appendix.)

**HB 735** was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 735** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 157**, with Committee Substitute, Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 157**. Agreed.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 157**. Agreed.

Representative Long moved the adoption of Committee Amendment No. 2 to **HB 157**. Agreed.

Representative Clarke moved that **HB 157**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 5. (See March 15, 1990 roll call on **HB 157** - Appendix.)

**HB 157**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 157**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 723**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 723**. Agreed.

Representative J. Harper moved the adoption of Floor Amendment No. 1 to **HB 723**. Agreed.

Representative Little moved that **HB 723**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 5. (See March 15, 1990 roll call on **HB 723** - Appendix.)

**HB 723**, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 723**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 659**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of Floor Amendment No. 1 to **HB 659**. Agreed.

Representative Gregory moved that **HB 659**, as amended, be passed.

On the roll call the vote was: Yeas 60, Nays 29. (See March 15, 1990 roll call on **HB 659** - Appendix.)

**HB 659**, as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 659**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 278** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 278** be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 15, 1990 roll call on **HB 278** - Appendix.)

**HB 278** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 278** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 279** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 279** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 15, 1990 roll call on **HB 279** - Appendix.)

**HB 279** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 279** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 280** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 280** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 15, 1990 roll call on **HB 280** - Appendix.)

**HB 280** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 280** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 447** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HB 447** be passed.

On the roll call the vote was: Yeas 83, Nays 6. (See March 15, 1990 roll call on **HB 447** - Appendix.)

**HB 447** was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 447** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 521**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Substitute to **HB 521**. Agreed.

Representative T. Jones moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 521**. Agreed.

Representative Brown moved that **HB 521**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 15, 1990 roll call on **HB 521** - Appendix.)

**HB 521**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 521**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 529**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved the adoption of Committee Amendment No. 1 to **HB 529**. Agreed.

Representative Bentley moved that **HB 529**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 15, 1990 roll call on **HB 529** - Appendix.)

**HB 529**, as amended, was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 529**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 576** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 576** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 15, 1990 roll call on **HB 576** - Appendix.)

**HB 576** was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 576** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 592**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Strong moved the adoption of Committee Amendment No. 1 to **HB 592**. Agreed.

Representative Worthington moved that **HB 592**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See March 15, 1990 roll call on **HB 592** - Appendix.)

**HB 592**, as amended, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 592**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 578** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 578** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 15, 1990 roll call on **HB 578** - Appendix.)

**HB 578** was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 578** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 683**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 683**. Agreed.

Representative Donnermeyer moved that **HB 683**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 15, 1990 roll call on **HB 683** - Appendix.)

**HB 683**, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 683**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 699** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jensen moved that **HB 699** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 15, 1990 roll call on **HB 699** - Appendix.)

**HB 699** was passed and the title agreed to.

Representative Jensen moved that the vote by which **HB 699** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 762** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 762** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 15, 1990 roll call on **HB 762** - Appendix.)

**HB 762** was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 762** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 763** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 763** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 15, 1990 roll call on **HB 763** - Appendix.)

**HB 763** was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 763** was passed be reconsidered and said motion be placed on the table. Agreed.

### Motions, Petitions and Communications

Representative Worthington moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

**HR 209**, by Representative Worthington: A RESOLUTION honoring Peter T. and Anna Lou McNeill, Foresters of the Year.

Representative Worthington moved the adoption of the following **HR 209**:

**HR 209**, A RESOLUTION honoring Peter T. and Anna Lou McNeill, Foresters of the Year.

WHEREAS, Peter T. and Anna Lou McNeill of Hillsboro in Fleming County, Kentucky, own some 978 acres of commercial forestland; and

WHEREAS, the McNeills have since 1958 actively managed that forestland in exemplary fashion for timber, wildlife, water, and recreation; and

WHEREAS, for their management efforts, the McNeills were honored by the American Tree Farm System as the 1988 National Tree Farmers of the Year; and

WHEREAS, this is the highest forestry distinction awarded to a private landowner in the United States and the first time Kentuckians have been so honored with this distinction;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body recognizes and applauds the efforts and achievements of Peter T. and Anna Lou McNeill and commends their example to tree farmers across the Commonwealth.

Section 2. That the Clerk of the House is directed to transmit a copy of this resolution to Peter T. and Anna Lou McNeill at their home in Hillsboro, Fleming County, Kentucky.

**HR 209** was adopted by voice vote.

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 208**:

**HR 208**, A RESOLUTION in honor of Ken Techau.

WHEREAS, national recognition has been bestowed on this Cynthiana grocer; and

WHEREAS, Ken Techau has been named chairman of the National Grocers' Association; and

WHEREAS, Ken Techau served in the past as member of the board of directors and the executive committee of the National Grocers' Association; and

WHEREAS, Ken Techau also served as president of the Kentucky Grocers' Association and was named Grocer of the Year by that organization in 1988;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the House of Representatives applauds and honors Ken Techau upon his being named the chairman of the National Grocers' Association.

Section 2. That the Clerk of the House of Representatives send a copy of this resolution to Ken Techau, 118 Grandview Drive, Cynthiana, Kentucky 41031.

**HR 208** was adopted by voice vote.

Representative Stumbo moved that **HB 524** be recommitted to Business Organizations and Professions. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SJR 92**, **SJR 93**, **HB 132**, **HB 259**, **HB 276**, **HB 439**, **HB 489** and **HB 557**. Agreed.

## Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

## Motions, Petitions and Communications (Continued)

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Allen moved that **HB 588** be withdrawn. Agreed.

Representative Reinhardt moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Reinhardt moved the adoption of the following **HR 196**:

**HR 196**, A RESOLUTION recommending increased funding for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station.

WHEREAS, the Cooperative Extension Service is mandated the state agency for transfer of technology and the Agricultural Experiment Station is mandated as the agricultural research agency for Kentucky; and

WHEREAS, the University of Kentucky Cooperative Extension Service since 1910 and the Agricultural Experiment Station since 1885 have a proven track record of serving extremely well their mandated responsibilities; and

WHEREAS, the Cooperative Extension Service and the Agricultural Experiment Station are invaluable to Kentucky's future in providing a knowledge base through research; and

WHEREAS, these two agencies provide the major source of technology delivery to Kentucky's farmers; and

WHEREAS, the social fabric of rural Kentuckians is dependent upon a strong agricultural economy; and

WHEREAS, the continued vitality of the Cooperative Extension Service and Agricultural Experiment Station is required to help Kentucky farmers in their time of great need; and

WHEREAS, the important and essential role of county extension agents for agriculture, home economics, and 4-H is dependent upon strong, well qualified professionals; and

WHEREAS, the average salary for Kentucky extension agents is significantly below the median extension agent salaries in the benchmark states, and only two states in the United States have extension agent starting salaries as low as the Kentucky Cooperative Extension Service; and

WHEREAS, the Kentucky Cooperative Extension Service has to replace forty (40) to fifty (50) extension agents each year primarily due to the noncompetitive salary situation; and

WHEREAS, there is a great need for expanded research and educational programs on environmental issues relating to agriculture;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the budget for the Cooperative Extension Service, College of Agriculture, University of Kentucky be increased from the state's general fund to bring the average salary of Kentucky County Extension Agents to the median salary of county extension agents in the benchmark states.

Section 2. That strong and continued support be given to the Agricultural Experiment Station and the Cooperative Extension Service in their pro-active efforts to expand environmental research and educational programs relating to agriculture and groundwater quality.

Section 3. That strong and continued support be given to updating facilities for innovative research and educational programs urgent to developing the economic potential of rural Kentucky.

Section 4. That copies of this resolution be sent to the President of the University of Kentucky and to the Dean of the University of Kentucky College of Agriculture.

**HR 196** was adopted by voice vote.

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 184**:

**HR 184,** A RESOLUTION pertaining to cost-of-living pension adjustments for state employees.

WHEREAS, it is recognized in all 50 states that post-retirement increases in pension benefits are necessary to preserve the purchasing power of public employees' retirement annuities, and thereby preserve their financial dignity after retiring from public employment; and

WHEREAS, the Commonwealth of Kentucky has responded to this need by approving periodic, ad hoc increases to the retirement benefits of the retirees of the Commonwealth and its political subdivisions; and

WHEREAS, ad hoc increases may cause undue financial strain because they are not actually pre-funded during the retirees' working careers;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the sentiment of the House supports automatic cost-of-living adjustments for the state's retirees.

Section 2. The Commonwealth of Kentucky should amend the six (6) public employee pension plans to include, by statute and plan language, automatic cost of living provisions which are based on some external measure, such as the Consumer Price Index for all urban consumers or the Consumer Price Index for urban wage earners and clerical workers, and which are prefunded by inclusion in periodic actuarial valuations.

**HR 184** was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

### Report of Committees

The Committee on Rules reported **SB 19, SB 81, SB 86, SB 141, SB 149, SB 154, SB 156, SB 182, SB 194, SB 202, SB 205, SB 207, SB 215, SB 237, HB 663, HB 168, HB 634, HB 647, HB 660, HB 693, HB 814, HB 816, HB 865, HB 908, HB 924, HB 926, HCR 166, HCR 182, HJR 183, HCR 186** and **SB 169** have been posted for passage in Orders of the Day, March 19, 1990.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, March 19, 1990: **SB 70.**

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 263, SB 274.**

Business Organizations and Professions: **HB 768.**

### Posting of Bills and Resolutions for Consideration

The Clerk announced thefollowing Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 475.**

Judiciary: **SB 300, SB 322, SB 329.**

Economic Development and Tourism: **SJR 110, SJR 92, HB 917.**

Agriculture and Small Business: **HB 675, SB 350.**

Appropriations and Revenue: **HB 132, HB 259, HB 276, HB 439, HB 489, HB 557.**

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Business Organizations and Professions: **HB 655, HB 411, HB 502, HB 566, HB 568.**

State Government: **HB 804.**

### Report of Committees

The Committee on Banking and Insurance reported **SB 315** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**SB 315,** AN ACT relating to health maintenance organizations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS 304.38-035 TO 304.38-040 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding the definition of health maintenance organization in KRS 304.38-030, an authorized health maintenance organization may issue contracts under which benefits are funded, in whole or in part, by an employer or other group contract holder.***

The Committee on Natural Resources and Environmental Protection reported **HB 80** with Committee Amendment attached thereto, **HB 620, HB 748, HB 792** with Committee Amendment attached thereto, **HB 893** with Committee Substitute and Committee Amendment attached thereto, **HB 915, HCR 155, HCR 161** with Committee Amendment attached thereto, **SB 155, SB 217** with Committee Amendment attached thereto, **SB 249** and **SB 311** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 80,** AN ACT relating to enforcement of the environmental protection program.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.994 is amended to read as follows:

(1) Any person who violates ***KRS 224.032(2) or (3),*** KRS 224.060, 224.140, 224.330***, 224.876, 224.877*** or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of ***twenty-five*** [~~ten~~] thousand dollars ***($25,000)*** [~~($10,000)~~] for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(2) Any person who violates subsections [~~(2), (3),~~] (4)[~~,~~] or (5) of KRS 224.032, or KRS 224.835, 224.842, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of ***five*** [~~one~~] thousand dollars ***($5,000)*** [~~($1,000)~~] for said violation and an additional civil penalty not to exceed ***five*** [~~one~~] thousand dollars ***($5,000)*** [~~($1,000)~~] for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who knowingly [~~or with criminal negligence~~] violates KRS 224.060, 224.140, 224.835, 224.330, 224.842***, or KRS 224.032(2) or (3),*** or any determination, permit, administrative regulation or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method***, or who tampers with a water supply, water purification plant or water distribution system so as to knowingly endanger human life,*** shall be guilty of a ***Class D felony*** [~~misdemeanor~~], and upon conviction thereof, shall be punished by a fine [~~of~~] not ***to exceed twenty-five thousand dollars ($25,000)*** [~~less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000)~~], or by imprisonment for a term of not ***less*** [~~more~~] than one (1) year ***and not more than five (5) years*** or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) ***If*** [~~Should~~] any person ***engages*** [~~engage~~] in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fail to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty

not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle, except with permission of the owner of such receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates a provision of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools.

Section 2. KRS 224.995 is amended to read as follows:

(1) The penalties ***and reasonable and documented response costs*** set forth in KRS 224.994 ***or Section 3 of this Act*** may be recoverable in an action brought in the name of the Commonwealth of Kentucky by cabinet counsel. In any such action, any finding of the cabinet shall be prima facie evidence of the fact or facts found therein.

(2) It shall be the duty of the Attorney General, upon the request of the cabinet, to appoint cabinet counsel as a special attorney general in order to institute an action for the recovery of the penalties ***and reasonable and documented response costs*** herein provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter or violating or threatening to violate any order or determination of the cabinet promulgated pursuant thereto. In any such action, any findings of the cabinet shall be prima facie evidence of the fact or facts found therein.

(3) Nothing contained in this chapter shall abridge the right of any person to recover actual compensatory damages resulting from any violation of this chapter.

***(4) The cabinet shall recover its response costs only to the extent that it prevails in any action alleging violations.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

***Any person who violates a provision of this chapter, or any determination, permit, administrative regulation or order of the cabinet and who causes the cabinet to incur response costs in responding to that violation, shall be liable to the cabinet for those response costs.***

The Committee Amendment No. 1 to **HB 80** is as follows:

Amend printed copy of **HB 80** on page 6, by deleting lines 18 through 26; and

On page 7, by deleting lines 1 through 16; and by renumbering SECTION 3 as SECTION 2.

**HB 620**, AN ACT relating to water supply protection.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS 151.700 TO 151.810 IS CREATED TO READ AS FOLLOWS:

***(1) It is a finding of the General Assembly that since 1981 when the United States Army Corps of Engineers ceased operating locks and dams, five (5) through fourteen (14) on the Kentucky River, the water impounded by those locks and dams have increasingly grown in importance as a sole water supply resource for Central Kentuckians. At the same time protection of the water within the Kentucky River system has become more difficult because of the sporadic operating schedule of the locks and dams which makes uncertain the ability of the state or federal government to travel between pools of the river system in order to effectively contain any contamination of the water in a timely manner.***

***(2) In order to protect the water of the Kentucky River as a drinking water supply resource the cabinet shall not issue a permit for any hazardous waste site or facility which is proposed to be located within the watershed of the Kentucky River. This prohibition shall not apply to sites or facilities for which a complete permit application has been submitted as of the effective date of this Act.***

***(3) If the state successfully secures a long-term and year round schedule for the operation of all the locks on the Kentucky River or if the state develops reliable and effective access by land for emergency response purposes to each pool of the river, then the cabinet may issue hazardous waste site or facility permits if the permits require spill prevention control plans sufficient to prevent any contaminant from reaching the river or a tributary of the river.***

***(4) Any site or facility with a permit or a complete application for a permit filed with the cabinet as of the effective date of this Act, may amend or renew those permits if a spill prevention control plan as set out in subsection (3) is submitted to and approved by the cabinet.***

HB 748, AN ACT relating to environmental protection.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste incinerator, landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(6). The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) to (5) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste incinerators, landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(6); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant; and

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until ***completion of closure*** [~~termination~~]. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars ($3,000,000) per occurrence with an annual aggregate of six million dollars ($6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing

on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required, in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

HB 792, AN ACT relating to waste management and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

***(1) A solid waste grant program is established to be administered by the Natural Resources and Environmental Protection Cabinet.***

***(2) Funds for grants in this program shall be supported by bonds allocated to the purpose under KRS Chapter 56 from money set aside for debt service.***

***(3) When the cabinet has identified a project to be funded, the secretary of the Natural Resources and Environmental Protection Cabinet shall submit a written description of the project to the secretary of the Finance and Administration Cabinet seeking concurrence on the project and requesting that funding for the project be placed upon the agenda of the State Property and Buildings Commission for approval and submitted to the Capital Projects and Bonds Oversight Committee.***

***(4) Any county solid waste management district, area development district, city, urban-county government or other political subdivision of the state shall be eligible for grants under this program.***

***(5) Grants may be made to defray the capital costs associated with promotion of recycling, universal collection, and other similar solid waste management activities.***

***(6) The Natural Resources and Environmental Protection Cabinet may promulgate administrative regulations establishing additional criteria and priorities for eligible projects and the awarding of grants upon adoption of a universal collection program.***

***(7) The Natural Resources and Environmental Protection Cabinet shall require that each grantee provide a reasonable and appropriate matching contribution to be eligible for a grant.***

***(8) The Natural Resources and Environmental Protection Cabinet in recommending projects for funding shall give priority to those projects which create opportunities for recycling or universal collection.***

***(9) Grants made pursuant to this Act shall be deemed as being made for essential governmental purposes.***

***(10) Four million dollars ($4,000,000) shall be made available pursuant to subsection (2) for grants under this Act.***

***(11) The Natural Resources and Environmental Protection Cabinet shall, after approving an application, award grants contingent upon adoption of an approved universal collection program.***

The Committee Amendment No. 1 to **HB** 792 is as follows:

Amend printed copy of **HB** 792 on page 1, lines 7 and 8, by deleting the language after the words "***supported by***" and inserting: "***funds appropriated to the Natural Resources and Environmental Protection Cabinet and any bonds for this program shall be issued by State Property and Buildings Commission pursuant to KRS Chapter 56.***".

**HB 893**, AN ACT relating to the environment.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.877 is amended to read as follows:

(1) As used in this section:

(a) [~~"Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping;~~

~~(b)~~] "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. ***The*** [~~Such~~] substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive;

***(b) "Release" means any spilling; leaking; pumping; pouring; emitting; emptying; discharging; injecting; escaping; leaching; dumping; or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant; but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; the release or source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of the act, or, any release of source byproduct, or special nuclear material from any processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978; and the normal application of fertilizer;***

(c) ***"Response costs" means any and all costs reasonably incurred by the cabinet in undertaking, overseeing and reviewing investigations; enforcement actions; site assessments; remedial actions; and environmental monitoring undertaken in response to a release or threatened release of hazardous substances at a site that are consistent with the contingency plan established under this Act. Response costs shall include the costs of actions taken to reduce public exposure to hazardous substances, such as the provision of temporary or permanent alternate drinking water supplies and alternate housing, and shall include all costs of site evaluation and oversight of site evaluation, including post-remedial reviews undertaken pursuant to this Act. The term shall include state contributions of funds and in-kind services to response actions performed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended;***

***(d) "Environment" means the navigable waters, the waters of the contiguous zone, and the ocean waters for which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act, as amended, and any other surface water, groundwater, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States;***

***(e) "Site" means any building, structure, installation, equipment, pipe or pipeline, including any pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicles, rolling stock, or aircraft, or any other place or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located. The term shall not include any consumer product in consumer use; and***

***(f) "Site assessment" means investigations, monitoring, surveys, testing, analyses, and other information gathering activities sufficient to identify the existence, source, nature and extent of a release or threatened release of a hazardous substance; the impact of the release or threatened release of hazardous substance on public health and the environment; and the most appropriate remedial action consistent with this Act.*** [~~"Preventive measures" mean the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan; and~~

~~(d) "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal Clean Water Act - (Public Law 92-500), as amended.~~]

(2) The cabinet shall promulgate regulations designating the hazardous substances subject to the provisions of this section, provided that the regulations shall not designate as hazardous any substance that is not a hazardous substance under the federal Comprehensive Environmental Response Compensation and Liability Act.

(3) ***The cabinet shall promulgate regulations designating for each hazardous substance the quantity of the substance for which release notification shall be provided to the cabinet under this Act.***

***(4)*** Persons possessing or controlling a hazardous substance shall immediately notify the cabinet of any ***release to the environment of a hazardous substance in a reportable quantity*** [~~discharge~~] which ***is not authorized by a permit issued by the cabinet or the United States Environmental Protection Agency, unless otherwise exempted from reporting by regulation of the cabinet*** [~~exceeds the limits permitted by law~~]. Notification received under this subsection or information obtained in a notification received under this subsection may not be used against the person making ***the*** [~~such a~~] notification in any criminal proceeding***, except in a prosecution for submitting a false or untimely notification to the cabinet.***

[~~(4) Persons having possession of or control over a hazardous substance being discharged or who caused the discharge shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge into the air, lands or waters of the Commonwealth.~~]

(5) The cabinet shall be the lead agency for hazardous substance emergency spill response and, after consultation with other affected federal, state and local agencies and private organizations, shall establish ***by administrative regulation*** a contingency plan for undertaking emergency actions in response to the ***release or threatened release*** [~~discharge~~] of hazardous substances. The contingency plan shall ***be consistent with the National Contingency Plan established under Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended and shall:***

(a) Provide for efficient, coordinated and effective action to minimize damage to the air, land and waters of the Commonwealth caused by the ***release or threat of release*** [~~discharge~~] of hazardous substances;

(b) Include containment, cleanup and disposal procedures;

(c) Provide for ***remediation*** [~~restoration~~] of the lands or waters affected ***consistent with this Act*** [~~to the satisfaction of the cabinet~~];

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing and disposing of [~~discharged~~] hazardous substances ***being released or threatened to be released.***

[~~(6) The cabinet shall have the authority, power and duty to:~~

~~(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual costs expended in response to an environmental emergency. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof or the amount of liability of any person;~~

~~(b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in said section. Such limitations of liability shall apply to the total of state and federal expenses;~~

~~(c) In every case where action required under this section is not being adequately taken or the identity~~

~~of the person responsible for the discharge is unknown, the cabinet or its agent may contain, remove or dispose of the hazardous substance or take any other emergency action which it deems appropriate under the circumstances, including, but not limited to, issuance of an emergency order as provided in KRS 224.071 to the person possessing, controlling or responsible for the discharge of the hazardous substance as necessary for the protection of the environment and public health, safety or welfare;~~]

*(6)*[~~(d)~~] Any duly authorized officer, employee or agent of the cabinet may upon notice to the owner or occupant enter any property, premises or place at any time for the purposes of this section[~~, if such entry is necessary to prevent damage to the air, land or waters of the Commonwealth~~]. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety*, or if the owner or occupant is unknown or cannot be located. The cabinet may investigate, sample, and inspect any records, conditions, equipment, practice, or property. If the cabinet reasonably determines as a result of an investigation, sample, or inspection that there has been a release or there is a threat of a release, the cabinet may enter the site and areas proximate to the site, and undertake actions as it deems necessary, including a site assessment or remedial action. During the course of any site assessment or remedial action, the cabinet may restrict and deny entry to the site and surrounding areas to protect the public health and the environment and to provide for the efficient, expeditious, and safe conduct of the actions taken. The restriction and denial shall not preclude access by the owner or occupant of the site provided that the person complies with all safety and operational procedures established by the cabinet and provided the person does not interfere with the efficient, expeditious, and safe conduct of the action.*

*(7) The cabinet may require any person who has or may have information relevant to any of the following to furnish, upon reasonable notice, information or documents relating to the following subjects:*

*(a) The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a site or transported to a site;*

*(b) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a site;*

*(c) Information relating to the ability of a person to pay for or to perform a cleanup; or*

*(d) The identity of transporters and the location of sites utilized for disposal of hazardous subtance. In addition, the cabinet may, upon reasonable notice, obtain access at all reasonable times to any site, facility, establishment, place, property or location in order to inspect and copy all documents or records relating to such matters.*

*(8) If the cabinet has reason to believe that a person has made a fraudulent representation to the cabinet or has destroyed or concealed or is likely to destroy or conceal evidence relating to a release or threatened release, or a response thereto, the cabinet may seize any records, equipment, property, or other evidence it deems necessary.*

*(9) The cabinet shall prepare and annually update an inventory of all sites in the Commonwealth at which there is or has been disposal, release or a threatened release of hazardous substances. In preparing the inventory the cabinet shall assess the impact of each site on public health and the environment and identify the relative priority for remedial action based on information available to the cabinet. Upon determining that a site assessment or remedial action is unnecessary or has been completed at a particular site, the cabinet shall remove the site from the inventory. A separate inventory of sites where a remedial action involving on-site containment or treatment has been performed and other sites where complete restoration of the environment has not been achieved shall be maintained. A review of environmental conditions at sites remediated by on-site containment or treatment and other sites where complete restoration of the environment is not achieved shall be conducted by the cabinet every five (5) years for the purpose of determining whether additional remedial action is necessary to protect human health or the environment.*

*(10) In the event of a release or threatened release of a hazardous substance at a site, which presents an imminent and substantial endangerment to the public health or welfare or the environment, the responsible party shall perform a site assessment and all remedial action determined to be necessary by the cabinet consistent with the state contingency plan. Upon determining that such action has not been taken in a timely manner, the cabinet may issue an order under KRS 224.081 requiring any responsible party to perform a site assessment or remedial action. Prior to performing a site assessment or remedial action, the responsible party shall submit a plan to the cabinet for review and, upon approval, shall implement the plan and submit a report within the time limits specified by the cabinet. Nothing herein shall require submittal of a plan prior to commencing immediate spill containment measures or emergency response measures under the oversight of the cabinet's emergency response team.*

*(11) Upon determining that there has been a release or threatened release of a hazardous substance and that the responsible party has failed to comply with the cabinet's order for site assessment or remedial*

***action issued pursuant to KRS 224.081 or has otherwise failed to take timely action, the cabinet may perform a site assessment or remedial action or may arrange for cleanup of the site pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act as amended. A responsible party may challenge the cabinet's site assessment or remedial action pursuant to KRS 224.081(2); but the cabinet may proceed to perform a site assessment or remedial action or otherwise arrange for cleanup of the site during the pendency of the challenge if the responsible party fails to perform the site assessment or remedial action.***

***(12) The cabinet may seek recovery of all costs which it has incurred in response to a release or threatened release of a hazardous substance at a site. The cabinet may obtain a declaratory judgment for response costs which will be incurred by the cabinet in the future. Liability for these costs shall be determined in accordance with this Act. Any responsible party which fails to comply with the cabinet's order for site assessment or remedial action issued pursuant to KRS 224.081 shall be liable for an amount equal to three (3) times the response costs incurred by the cabinet. The statute of limitations for recovery of response costs shall commence upon completion of all necessary remedial action at a site. All amounts recovered by the cabinet pursuant to this section shall be deposited in the hazardous waste management fund.***

***(13) Remedial action conducted in response to a release or threatened release of a hazardous substance shall adequately protect human health, safety, and the environment considering the following factors as appropriate:***

***(a) The physical and chemical characteristics of the substance, including its toxicity, persistence, and potential for migration;***

***(b) The hydrogeologic characteristics of the facility and the surrounding area;***

***(c) The proximity, quality, and current and future uses of nearby surface water and goundwater;***

***(d) The potential effects of residual contamination on nearby surface water and groundwater;***

***(e) An exposure assessment; and***

***(f) All other available information.***

***(14)***[~~(7)~~] The cabinet shall have a lien against the real and personal property of a person liable for the ***response*** [~~actual~~] costs expended in response to ***a release of hazardous substances at a site*** [~~an environmental emergency or cleanup, as provided for in subsection (6) of this section~~]. The lien shall be filed with the county clerk of the county in which the property of the person is located.

***(15)***[~~(8)~~] Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to section 311 of the Federal Clean Water Act, [~~(~~]Public Law 92-500,[~~)~~] as amended, but rather shall be used to provide the Commonwealth with a mechanism for ***additional response to releases of hazardous substances*** [~~more immediate response to emergencies resulting from the discharge of hazardous substances~~].

***(16) Liability, defenses to liability and limitations to liability shall be determined in accordance with Section 107(a) through (d) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended.***

The Committee Substitute to **HB 893** is as follows:

**HB 893,** AN ACT relating to the environment.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.877 is amended to read as follows:

(1) As used in this section:

(a) [~~"Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping;~~

~~(b)~~] "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. ***The*** [~~Such~~] substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive;

***(b) "Release" means any spilling; leaking; pumping; pouring; emitting; emptying; discharging; injecting; escaping; leaching; dumping; or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance; but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping or compressor station engine; the release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of the act, or, any release of source byproduct, or special nuclear material from any processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978; and the normal application of fertilizer;***

(c) ***"Response costs" means necessary costs reasonably incurred by the cabinet in undertaking, overseeing and reviewing investigations; enforcement actions; site assessments; remedial actions; and environmental monitoring undertaken in response to a release of a reportable quantity of hazardous substances at a site that are consistent with the contingency plan established under this Act. Response costs shall include the costs of actions taken to reduce public exposure to the release of hazardous substances, such as the provision of alternate drinking water supplies and temporary evacuation and housing of threatened individuals not otherwise provided for, and shall include all costs of site evaluation and oversight of site evaluation, including post-remedial reviews undertaken pursuant to this Act. The term shall include state contributions of funds and in-kind services to response actions performed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended;***

***(d) "Environment" means the navigable waters, the waters of the contiguous zone, and the ocean waters for which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act, as amended, and any other surface water, groundwater, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States;***

***(e) "Site" means any building, structure, installation, equipment, pipe or pipeline, including any pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicles, rolling stock, or aircraft, or any other place or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located. The term shall not include any consumer product in consumer use;***

***(f) "Site assessment" means investigations, monitoring, surveys, testing, analyses, and other information gathering activities sufficient to identify the existence, source, nature and extent of a release of a hazardous substance; the impact of the release of hazardous substance on public health and the environment; and the most appropriate remedial action consistent with this Act*** [~~"Preventive measures" mean the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan~~]; and

***(g)***[~~(d)~~] "Environmental emergency" ***means*** [~~includes~~] any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal Clean Water Act - (Public Law 92-500), as amended.

(2) The cabinet shall promulgate regulations designating the hazardous substances ***and quantities*** subject to the provisions of this section, provided that the regulations shall not designate as hazardous any substance that is not a hazardous substance under the federal Comprehensive Environmental Response Compensation and Liability Act.

(3) ***The cabinet shall promulgate regulations no later than one hundred and eighty (180) days after the effective date of this Act designating for each hazardous substance the quantity of the substance for which release notification shall be provided to the cabinet under this Act. The quantities shall be no less than quantities under the federal Comprehensive Environmental Response Compensation and Liability Act, as amended.***

***(4)*** Persons possessing or controlling a hazardous substance shall immediately notify the cabinet of any ***release to the environment of a hazardous substance in a reportable quantity*** [~~discharge~~] which ***is not authorized by a permit issued by the cabinet or the United States Environmental Protection Agency, unless otherwise exempted from reporting by regulation of the cabinet*** [~~exceeds the limits permitted by law~~]. Notification received under this subsection or information obtained in a notification received under this subsection may not be used against the person making ***the*** [~~such a~~] notification in any criminal proceeding***, except in a prosecution for submitting a false or untimely notification to the cabinet.***

[~~(4) Persons having possession of or control over a hazardous substance being discharged or who caused~~

~~the discharge shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge into the air, lands or waters of the Commonwealth.~~]

(5) The cabinet shall be the lead agency for hazardous substance emergency spill response and, after consultation with other affected federal, state and local agencies and private organizations, shall establish ***by administrative regulation*** a contingency plan for undertaking emergency actions in response to the ***release*** [~~discharge~~] of hazardous substances. The contingency plan shall ***be consistent with the National Contingency Plan established under Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended and shall***:

(a) Provide for efficient, coordinated and effective action to minimize damage to the air, land and waters of the Commonwealth caused by the ***release*** [~~discharge~~] of hazardous substances;

(b) Include containment, cleanup and disposal procedures;

(c) Provide for ***remediation*** [~~restoration~~] of the lands or waters affected ***consistent with this Act*** [~~to the satisfaction of the cabinet~~];

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing and disposing of [~~discharged~~] hazardous substances ***being released***.

[~~(6) The cabinet shall have the authority, power and duty to:~~

~~(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual costs expended in response to an environmental emergency. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof or the amount of liability of any person;~~

~~(b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in said section. Such limitations of liability shall apply to the total of state and federal expenses;~~

~~(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the discharge is unknown, the cabinet or its agent may contain, remove or dispose of the hazardous substance or take any other emergency action which it deems appropriate under the circumstances, including, but not limited to, issuance of an emergency order as provided in KRS 224.071 to the person possessing, controlling or responsible for the discharge of the hazardous substance as necessary for the protection of the environment and public health, safety or welfare;~~]

***(6)***[~~(d)~~] Any duly authorized officer, employee or agent of the cabinet may upon notice to the owner or occupant enter any property, premises or place at any time for the purposes of this section, if such entry is necessary to prevent damage to the air, land or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety***, or if the owner or occupant is unknown or cannot be located. The cabinet may investigate, sample, and inspect any records, conditions, equipment, practice, or property. If the cabinet reasonably determines as a result of an investigation, sample, or inspection that there has been a release, the cabinet may enter the site and areas proximate to the site and undertake actions as it deems necessary, including a site assessment or remedial action. During the course of any site assessment or remedial action, the cabinet may restrict and deny entry to the site and surrounding areas to protect the public health and the environment and to provide for the efficient, expeditious, and safe conduct of the actions taken. The restriction and denial shall not preclude access by the owner or occupant of the site provided that the person complies with all safety and operational procedures established by the cabinet and provided the person does not interfere with the efficient, expeditious, and safe conduct of the action.***

***(7) The cabinet may require any person who has or may have information relevant to any of the following to furnish, upon reasonable notice, information or documents relating to the following subjects:***

***(a) The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a site or transported to a site;***

***(b) The nature or extent of a release of a hazardous substance at or from a site;***

***(c) Information relating to the ability of a person to pay for or to perform a cleanup; or***

***(d) The identity of transporters and the location of sites utilized for disposal of hazardous substance. In addition, the cabinet may, upon reasonable notice, obtain access at all reasonable times to any site, facility, establishment, place, property or location in order to inspect and copy all documents or records relating to such matters.***

***(8) If the cabinet has reason to believe that a person has made a fraudulent representation to the cabinet or has destroyed or concealed or is likely to destroy or conceal evidence relating to a release, or a response thereto, the cabinet may seize any records, equipment, property, or other evidence it deems necessary.***

***(9) The cabinet shall prepare and annually update an inventory of all sites in the Commonwealth at which there is or has been disposal or release of a hazardous substance. In preparing the inventory the cabinet shall assess the impact of each site on public health and the environment and identify the relative priority for remedial action based on information available to the cabinet. Upon determining that a site assessment or remedial action is unnecessary or has been completed at a particular site, the cabinet shall remove the site from the inventory. A separate inventory of sites where a remedial action involving on-site containment or treatment has been performed and other sites where remediation of the environment has not been achieved shall be maintained. A review of environmental conditions at sites remediated by on-site containment or treatment and other sites where remediation of the environment is not achieved shall be conducted by the cabinet every five (5) years for the purpose of determining whether additional remedial action is necessary to protect human health or the environment.***

***(10) In the event of a release of a hazardous substance at a site, which presents an imminent and substantial endangerment to the public health or welfare or the environment, the responsible party shall perform a site assessment and all remedial action determined to be necessary by the cabinet consistent with the state contingency plan. Upon determining that such action has not been taken in a timely manner, the cabinet may issue an order under KRS 224.081 requiring any responsible party to perform a site assessment or remedial action. Prior to performing a site assessment or remedial action, the responsible party shall submit a plan to the cabinet for review and, upon approval, shall implement the plan and submit a report within the time limits specified by the cabinet. Nothing herein shall require submittal of a plan prior to commencing immediate spill containment measures.***

***(11) Upon determining that there has been a release of a hazardous substance and that the responsible party has failed to comply with the cabinet's order for site assessment or remedial action issued pursuant to KRS 224.081 or has otherwise failed to take timely action, the cabinet may perform a site assessment or remedial action or may arrange for cleanup of the site pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act as amended. A responsible party may challenge the cabinet's site assessment or remedial action pursuant to KRS 224.081(2); but the cabinet may proceed to perform a site assessment or remedial action or otherwise arrange for cleanup of the site during the pendency of the challenge if the responsible party fails to perform the site assessment or remedial action.***

***(12) The cabinet may seek recovery of all necessary costs reasonably incurred in response to a release of a hazardous substance at a site. The cabinet may obtain a declaratory judgment for response costs which will be incurred by the cabinet in the future. Liability for these costs shall be determined in accordance with this Act. Any responsible party which fails to comply with the cabinet's order for site assessment or remedial action issued pursuant to KRS 224.081 shall be liable for the response costs incurred by the cabinet. The statute of limitations for recovery of response costs shall commence upon completion of all necessary remedial action at a site. All amounts recovered by the cabinet pursuant to this section shall be deposited in the hazardous waste management fund.***

***(13) Remedial action conducted in response to a release of a hazardous substance shall adequately protect human health, safety, and the environment considering the following factors as appropriate:***

***(a) The physical and chemical characteristics of the substance, including its toxicity, persistence, and potential for migration;***

***(b) The hydrogeologic characteristics of the facility and the surrounding area;***

***(c) The proximity, quality, and current and future uses of nearby surface water and groundwater;***

***(d) The potential effects of residual contamination on nearby surface water and groundwater;***

***(e) An exposure assessment; and***

***(f) All other available information.***

***(14)***[~~(7)~~] The cabinet shall have a lien against the real and personal property of a person liable for the ***response*** [~~actual~~] costs expended in response to ***a release of hazardous substances at a site*** [~~an environmental emergency or cleanup, as provided for in subsection (6) of this section~~]. The lien shall be filed with the county clerk of the county in which the property of the person is located.

***(15)***[~~(8)~~] Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to section 311 of the Federal Clean Water Act, [~~(~~]Public Law 92-500,[~~)~~] as amended, but rather shall be used to provide the Commonwealth with a mechanism for ***additional response to releases of hazardous substances*** [~~more immediate response to emergencies resulting from the discharge of hazardous substances~~].

***(16) Liability, defenses to liability and limitations to liability shall be determined in accordance with Section 107(a) through (d) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended and the federal Clean Water Act, as amended.***

The Committee Amendment No. 1 to **HB 893** is as follows:

Amend printed copy of HCS to **HB 893** on page 7, line 2, after the word "for" by inserting "***certification***" and by placing brackets around and striking through the word "designation"; and

on line 4, after the word "plan" by inserting "***. The cabinet shall certify persons who receive training through the cabinet or who receive training through another entity and the person submits information about the training which enables the cabinet to determine that the training is adequate for its intended purpose***".

**HB 915,** AN ACT relating to shooting ranges.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

***As used in this Act:***

***(1) "Local unit of government" means a county urban county government, or city.***

***(2) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols or other firearms, silhouettes, skeet, trap, target, black powder, or any other similar sport shooting.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any other provision of law, a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local unit of government or there were no such laws or ordinances in effect at the time of construction or first operation of the range. The provision of this section relating to approval of range construction or operation by a local unit of government shall not apply if such approval was not required at the time of construction or first operation of the range.***

***(2) A person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of the state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local unit of government or there were no such laws or ordinances in effect at the time of construction or first operation of the range. The provision of this section relating to approval of range construction or operation by a local unit of government shall not apply if such approval was not required at the time of construction or first operation of the range.***

***(3) State laws and administrative regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this Act.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

***This Act does not prohibit a local unit of government from regulating the location and construction of a sport shooting range after the effective date of this Act.***

**HCR 155,** A CONCURRENT RESOLUTION requesting the United States Army Corps of Engineers to take immediate steps to clean and dredge the Rolling Fork River in the areas of New Haven, Boston, and Lebanon Junction, Kentucky.

WHEREAS, the necessity for the dredging has been made apparent b unnatural flooding for the last five years; and

WHEREAS, this needless overflow and accumulation of debris is a concern of citizens along this portion of the Rolling Fork River; and

WHEREAS, the citizens' health, safety, and welfare are constantly at risk; and

WHEREAS, dredging and cleaning this portion of the Rolling Fork River will keep the river within its natural boundaries;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the General Assembly urgently request the United States Army Corps of Engineers to take steps without delay to clean and dredge the Rolling Fork River in the areas of New Haven, Boston, and Lebanon Junction, Kentucky.

Section 2. That copies of this resolution be transmitted to General H. J. Hatch, United States Army Corps of Engineers, Washington, D.C. 20314-1000 and Colonel David E. Peixotto, United States Army Corps of Engineers, Louisville District, Post Office Box 59, Louisville, Kentucky 40201.

**HCR 161,** A CONCURRENT RESOLUTION creating the Joint Committee on Paper Recycling.

WHEREAS, landfill space is becoming increasingly scarce and expensive; and

WHEREAS, old newspapers comprise roughly eight percent (8%) of a local government's solid waste and are highly recyclable; and

WHEREAS, recycled newsprint accounts for eleven percent (11%) of the total newsprint production in North America; and

WHEREAS, the construction of a recycled newsprint manufacturing facility requires an immense investment of capital; and

WHEREAS, in 1986 paper and paperboard comprised forty-one percent (41%) of the nation's solid waste; and

WHEREAS, eighty percent (80%) of this volume of paper and paperboard is placed in landfills;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That a Joint Committee on Paper Recycling be established to study the means of increasing the production and use of recycled newsprint and recycled paper and paperboard. The joint committee shall, among other things, (a) assess the availability of recycled newsprint to the newspapers in the Commonwealth and the availability of recyclable paper and paperboard; (b) determine what actions by the Commonwealth, including tax incentives and expedited regulatory approval, could increase the availability of recycled newsprint and recyclable paper and paperboard; and (c) confer with representatives of the newspaper industry and the paper industry to establish guidelines for use of recycled newsprint, paper, and paperboard in line with projected availability.

The Joint Committee on Paper Recycling shall be composed of ten (10) members to be appointed as follows: Three (3) members of the House of Representatives to be appointed by the Speaker of the House; two (2) members of the Senate to be appointed by the President Pro Tem of the Senate; the Secretary of the Economic Development Cabinet; and four (4) citizen members to be appointed by the Governor, two (2) representing newspapers published in the Commonwealth, one (1) representing the newsprint recycling industry, and one (1) representing the paper industry.

Section 2. That the joint committee report its findings and recommendations to the Governor and the Legislative Research Commission by September 1, 1991.

Section 3. Staff services to be utilized in the operation of the joint committee are estimated to cost fifteen thousand dollars ($15,000). These staff services shall be provided from the regular commission budget and are subject to the limitations and the research responsibilities of the commission.

The Committee Amendment No. 1 to **HCR 161** is as follows:

Amend printed copy of **HCR 161**, on page 2, line 18, after the word "Cabinet" and before the ";" add ", or his designee".

**SB 155,** AN ACT relating to water resources.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 151.140 is amended to read as follows:

No person, business, industry, city, county, water district, or other political subdivision shall have the right to withdraw, divert, or transfer public water from a stream, lake, ground water source or other body of water, unless such person, business, industry, city, county, water district or other political subdivision has been granted a permit by the cabinet for ***the*** [~~such~~] withdrawal, diversion, or transfer of water. [~~Provided,~~] However, no permit shall be required for and nothing herein shall interfere with the use of water for agricultural and domestic purposes including irrigation; and no permit shall be required if the amount of water withdrawn, diverted or transferred is less than the amount established by ***administrative*** regulation and no permit shall be required for water used in the production of steam generating plants of companies whose retail rates are regulated by the Kentucky Public Service Commission or for which plants a certificate of environmental compatibility from such commission is required by law, or water injected underground in conjunction with operations for the production of oil or gas. ***The cabinet may require reports on withdrawal and consumption of water to be submitted by steam generating plants of companies whose retail rates are regulated by the Kentucky Public Service Commission or which must obtain a certificate of environmental compatibility from the commission. In no case shall the utility be compelled to submit the reports more frequently than semi-annually, nor shall any utility be required to supply information not currently available nor shall any utility be compelled to install new monitoring equipment or upgrade existing equipment. However, the reports shall be as comprehensive as possible under current measuring conditions to allow the cabinet to make a reasonably accurate assessment of consumptive use of water.***

**SB 217,** AN ACT relating to fish and wildlife.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 150.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline or sport fishing trotline;

(2) "Buy" includes offering to buy, acquiring or possessing through purchase, barter, exchange or trade;

(3) "Commercial trotline" ***means*** [~~is~~] a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;

(4) "Commission" means the department of fish and wildlife resources commission;

(5) "Commissioner" means the commissioner of the department of fish and wildlife resources;

(6) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;

(7) "Device" means any article, instrument or equipment of whatever nature or kind which may be used to take wild animals, wild birds or fishes;

(8) "Department" means the department of fish and wildlife resources;

(9) "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;

(10) ***"Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object*** [~~"Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook~~];

(11) ***"Grabbing" means the taking of fish, frogs or turtles directly by hand or with the aid of a handled hook*** [~~"Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object~~];

(12) ***"Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not*** [~~"Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator~~];

(13) ***"Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator*** [~~"Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not~~];

(14) "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;

(15) "Jugging" ***means*** [~~is~~] a means of fishing by which a single baited line is attached to any floating object;

(16) ***"Minnows" means all fish under six (6) inches in length, except basses, either largemouth, smallmouth or Kentucky, rock bass or goggle-eye, trout, crappie, walleye, sauger, pike, members of the striped bass family, and muskellunge*** [~~"Navigable waters" means any waters within this state under lock and dam~~];

(17) ***"Navigable waters" means any waters within this state under lock and dam*** [~~"Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for six (6) months immediately prior to his application for a license~~];

(18) ***"Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for thirty (30) days immediately prior to his application for a license*** [~~"Minnows" means all fishes under six (6) inches in length, except basses (largemouth, smallmouth, or Kentucky), rock bass or goggle-eye, trout, crappie, walleye, sauger, pikes, members of the striped bass family, and muskellunge~~];

(19) ***"Possess" means the act of having or taking into control;***

***(20)*** "Prescribed by the department" means established by a regulation or regulations;

***(21)***[~~(20)~~] "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;

***(22)***[~~(21)~~] "Protected wildlife" ***means*** [~~is~~] any wildlife for which an open or closed season for taking has been designated;

***(23)***[~~(22)~~] "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county or municipal agency.

***(24)***[~~(23)~~] "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;

***(25)***[~~(24)~~] "Raw fur" means a hide, fur or pelt of a fur-bearing animal which has not been processed. Skinning, stretching, oiling or coloring of the pelt of the animal shall not be considered processing;

***(26)***[~~(25)~~] "Regulation" means a written regulation adopted by the commissioner with the approval of the commission;

***(27)***[~~(26)~~] "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for ***thirty (30) days*** [~~six (6) months~~] immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;

***(28)***[~~(27)~~] "Resist" means to point a gun at, leave the scene, intimidate or attempt to intimidate in any manner or further interfere in any manner with any officer in the discharge of his duties;

***(29)***[~~(28)~~] "Rough fish" means all species of fishes other than those species designated by regulation as sport fishes;

***(30)***[~~(29)~~] "Sell" includes offering to sell, having or possessing for sale, barter, exchange or trade;

***(31)***[~~(30)~~] "Setline" means a line to which is attached one single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole or other stationary object, on the bank of a stream or impoundment;

***(32)***[~~(31)~~] "Snagging" ***means*** [~~is~~] the taking of fish or other aquatic animals through the use of a hand held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;

***(33)***[~~(32)~~] "Sports fishing trotline" ***means*** [~~is~~] a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches.

***(34)***[~~(33)~~] "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture, wildlife in any way and any lesser act designed to lure, attract or entice for ***these*** [~~such~~] purposes; and to place, set, aim or use any device, animal, substance or agency which may reasonably be expected to accomplish ***these*** [~~such~~] acts; or to attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts;

***(35)***[~~(34)~~] "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employee or tenant unless actually residing on the property and engaged or employed as above mentioned;

***(36)***[~~(35)~~] "Transport" means to carry, move or ship wildlife from one (1) place to another; and

***(37)***[~~(36)~~] "Wildlife" means any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian or other terrestrial or aquatic life, whether or not possessed in controlled environment, bred, hatched or born in captivity and including any part, product, egg or offspring thereof, protected or unprotected by this chapter.

Section 2. KRS 150.092 is amended to read as follows:

(1) No person shall enter upon the lands of another to shoot, hunt or fish without the oral or written consent of the owner or tenant. ***No person shall enter upon the lands of another to trap furbearers or to hunt deer or turkey without the written consent of the owner or tenant*** [~~or trap without the written consent of the owner or tenant~~].

(2) Any conservation officer shall, upon written complaint of the owner or tenant, arrest any person who is violating this section, if the officer is already on the land for the purpose of enforcing other provisions of this chapter. The officer may arrest on his own initiative for a violation of any provision of this section, whether or not he is already on the land for the purpose of enforcing other provisions of this chapter. He shall not be required to make an arrest unless he is already [~~so~~] on the land.

(3) ***Any person who enters upon the lands of another to shoot, hunt, trap or fish shall not, through his actions, cause damage to any buildings, fences, crops, livestock or domestic animals, machinery, or other property while upon these lands.***

***(4)*** Nothing in this section shall be construed to limit the existing powers of peace officers.

Section 3. KRS 150.175 is amended to read as follows:

***(1)*** The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under ***the*** [~~such~~] licenses and tags, subject to the other provisions of this chapter and subject to regulations adopted under this chapter, ***shall be*** [~~are~~] as follows:

***(a)***[~~(1)~~] Statewide resident sport fishing license which authorizes the holder [~~thereof~~] to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations ***in this chapter*** [~~hereinafter set forth~~] and such additional limitations as the department may from time to time prescribe.[~~;~~] This license ***shall*** [~~does~~] not authorize the holder to sell fish;

***(b)***[~~(2)~~] A short term sport fishing license which may be issued only to a nonresident and which authorizes the holder [~~thereof~~] to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed regulations. This license ***shall*** [~~does~~] not authorize the holder to sell fish;

***(c)***[~~(3)~~] A resident commercial fishing license and a nonresident commercial fishing license, which ***authorize*** [~~authorizes~~] a holder [~~thereof~~] to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by regulation.

***The*** [~~Such~~] license shall also authorize the holder [~~thereof~~] to sell rough fishes, other than those protected by regulation;

[~~(4) An Ohio River sport fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to take fish from the Ohio River only by any method authorized under a statewide sport fishing license. This license does not authorize the holder to sell fish;~~

~~(5) An Ohio River commercial fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to exercise in the Ohio River only the same privileges that may be exercised under a commercial fishing license, as defined in subsection (3) of this section, provided that the holder of such license has first obtained a tag or tags for each piece of commercial fishing gear in possession including each seine, net, trap, and line;~~]

***(d)***[~~(6)~~] A commercial fishing gear tag ***which shall*** [~~must~~] be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license [~~or an Ohio River commercial fishing license~~];

***(e)***[~~(7)~~] Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder [~~thereof~~] to sell bait and live fish as may be prescribed by regulation;

***(f)***[~~(8)~~] Musseling licenses, resident and nonresident, which authorize the holder thereof to take mussels for commercial purposes as may be prescribed by regulation;

***(g)***[~~(9)~~] A statewide resident hunting license, which authorizes the holder [~~thereof~~] to take or pursue wild animals, wild birds, frogs and turtles with gun, bow and arrow, dog or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and regulations of the department;

***(h)***[~~(10)~~] A junior statewide hunting license, which may be issued only to a resident of this state, before he has reached his [~~or her~~] sixteenth birthday, [~~but which becomes void on his or her sixteenth birthday,~~] and which authorizes the holder [~~thereof~~] to exercise all the privileges authorized by a statewide hunting license.[~~; provided that~~] No junior hunting license shall be issued without the written permission of parent, guardian or person having custody of ***the*** [~~such~~] person under sixteen (16) years of age;

***(i)***[~~(11)~~] Trapping licenses, resident and nonresident, which authorize the holder [~~thereof~~] to take wild animals by trapping upon his own lands or upon the lands of another person, ***if*** [~~provided that~~] the holder of ***the*** [~~such~~] license shall have first obtained a written consent as provided in KRS 150.410;

***(j)***[~~(12)~~] A taxidermist's license, which authorizes the holder [~~thereof~~] to engage in the business of preparing, stuffing and mounting the skins of wildlife;

***(k)***[~~(13)~~] A commercial guide's license, which authorizes the holder [~~thereof~~] to guide hunting and fishing parties according to the provisions of the laws and regulations of the department;

***(l)***[~~(14)~~] Fur buyer's licenses, resident and nonresident, which authorize the holder [~~thereof~~] to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for ***the*** [~~such~~] license shall state the number of premises to be used and shall display at each a copy of same as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke license for violation;

***(m)***[~~(15)~~] A fur processor's license, which may be issued only to a resident, a partnership, firm or corporation of this state and which authorizes the holder [~~thereof~~] to buy raw furs when in legal possession for processing, manufacture or retention in cold storage or for resale;

***(n)***[~~(16)~~] A nonresident sport fishing license which authorizes the holder [~~thereof~~] to perform any act authorized by a resident statewide sport fishing license. This license ***shall*** [~~does~~] not authorize the holder to sell fish;

***(o)***[~~(17)~~] A nonresident annual hunting license which authorizes the holder [~~thereof~~] to perform any act authorized by a resident statewide hunting license;

***(p)***[~~(18)~~] A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license ***shall be*** [~~is~~] good only for the preserve for which it was issued and shall ***remain in effect*** [~~continue legal~~] only for one (1) year. These licenses shall be issued in ink by the preserve manager, and ***he shall insure*** [~~it becomes his responsibility to see~~] that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, ***may*** [~~shall have the authority to~~] establish and regulate hunting preserves, either private or commercial;

***(q)***[~~(19)~~] A big game permit ***and a junior big game permit***, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, ***authorize*** [~~authorizes~~] the holder [~~thereof~~] to take or pursue deer, bear or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and regulations governing ***the*** [~~such~~] hunting;

***(r)***[~~(20)~~] A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

***(s)***[~~(21)~~] A trout stamp, which in combination with a valid statewide fishing license, authorizes the holder [~~thereof~~] to take trout by angling or as may be prescribed by regulation;

***(t)***[~~(22)~~] A commercial waterfowl permit, which authorizes the holder [~~thereof~~] to establish and operate a commercial waterfowl hunting preserve;

***(u) A short term hunting license which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license, except for hunting big game species for which an annual nonresident hunting license shall be required, and according to the provisions of the laws and regulations of the department;***

***(v)***[~~(23)~~] ***A joint statewide resident sport fishing license issued to a husband and wife*** [~~Effective January 1, 1986, a husband and wife shall be issued a joint statewide resident sport fishing license, upon their request,~~] which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses; and

***(w)***[~~(24)~~] A Kentucky waterfowl stamp, which in combination with a valid statewide hunting license and a valid migratory bird hunting stamp, authorizes the holder [~~thereof~~] to take or pursue migratory waterfowl.

Section 4. KRS 150.190 is amended to read as follows:

(1) The commissioner may, with the approval of the commission, adopt the design of all licenses required by this chapter and make all regulations for their issuance. Licenses shall be issued on a form prescribed by the commissioner, subscribed and sworn to by the applicant and giving the following information: Sufficient general description of the applicant to identify him, his name, place of residence and house number. No person shall make a false statement or provide any false information when securing a license. No person shall alter or falsify a license or permit in any manner.

(2) Except as provided in subsections (3) to ***(6)*** [~~(7)~~], all licenses and tags provided for in this chapter shall be issued by the county clerk or the department. The clerk or the department shall sign the licenses and shall require the persons to whom the licenses are issued to sign their names on the license attesting to the validity of the information contained thereon. The clerk or the department shall keep a correct and complete copy of all licenses issued in the book of licenses furnished by the department, and these records shall be open to inspection by the public during regular office hours. No county clerk, deputy clerk, or agent or the department shall knowingly make a false entry upon a license or upon a license record or report required by this chapter.

(3) [~~Ohio River sport fishing licenses and Ohio River commercial fishing licenses and seine, hoop net, net, commercial trotline and snag line tags for holders of Ohio River commercial fishing licenses shall be issued by the department directly, or through such persons, resident and nonresident, as may be designated by the commissioner as agents for that purpose.~~

~~(4)~~] Commercial guide's licenses, fur buyer's licenses, both resident and nonresident, and fur processor's licenses shall be issued directly by the department. Any applicant for a commercial guide's license shall be required to present proof to the satisfaction of the commissioner, in accordance with [~~such~~] regulations [~~as~~] the commissioner may prescribe with the approval of the commission, that he is qualified to act as a commercial guide. Any applicant for a fur processor's license shall be required to present proof to the satisfaction of the commissioner, in accordance with [~~such~~] regulations [~~as~~] the commissioner may prescribe with the approval of the commission, that he has sufficient equipment and facilities to engage in the business of processing, manufacture and storage of raw furs.

***(4)***[~~(5)~~] A live fish and bait dealer's license, both resident and nonresident, shall be issued directly by the department, or through ***the*** [~~such~~] persons, resident or nonresident, [~~as may be~~] designated by the commissioner as agents for that purpose.

***(5)***[~~(6)~~] Musseling licenses, both resident and nonresident, shall be issued directly by the department.

***(6)***[~~(7)~~] Commercial fishing licenses, both resident and nonresident, shall be issued directly by the department, or through ***the*** [~~such~~] residents ***which*** [~~as~~] may be designated by the commissioner as agents for that purpose.

Section 5. KRS 150.230 is amended to read as follows:

(1) The county clerk or any agent designated by the department under the provisions of [~~subsection (3) of~~] KRS 150.190 shall retain a fee pursuant to KRS 64.012 out of the money received by him for licenses and tags.

(2) ***The*** [~~Such~~] fees shall cover the swearing of the applicant to his application and all other services under this chapter. The county clerk shall pay the remainder of the license fees, after deducting therefrom his fee, to the state treasurer on or before the tenth day of each month, which amount shall be credited to the game and fish fund. The county clerk shall report to the commissioner on or before the tenth day of each month the number and kind of licenses and tags issued and the amount of money remitted to the state treasurer. The county clerk shall report to the commissioner on or before twenty-five (25) days after the close of the license year the number and kind of licenses and tags issued the preceding year and the amount of money remitted to the state treasurer.

Section 6. KRS 150.360 is amended to read as follows:

(1) No person shall take any wildlife, [~~except fishes,~~] whether protected by this chapter or not, except by trapping, snaring, gig, ***crossbow,*** bow and arrow, ***hook and line, nets,*** gun, gun and dog, dog, falconry, or as expressly prescribed by regulation.

(2) ***Shotguns*** [~~No shotgun~~] used in the taking of wildlife, protected or unprotected, shall ***not*** be larger than 10-gauge and [~~the same~~] shall be fired from the shoulder. No wildlife, except deer, protected or unprotected, shall be taken with or by means of any automatic loading or hand-operated repeating shotgun capable of holding more than three (3) shells, the magazine of which has not been cut off or plugged with a one-piece filler incapable of removal through the loading end [~~thereof~~], in such manner as to reduce the capacity of ***the*** [~~said~~] gun to not more than three (3) shells at one (1) time in the magazine and chamber combined. [~~Firearms shall not be used in the taking of fishes.~~]

(3) No person shall ***take or attempt to take any wildlife, protected or unprotected, from an automobile, or other vehicle, unless prescribed by regulation. Boats may be used except as prohibited by state or federal regulation.***

***(4) No person shall discharge any firearm, bow and arrow, crossbow or other similar device, upon, over, or across any public roadway.***

***(5) No person shall take wildlife,*** [~~hunt wildlife (~~]except opossum, raccoon, fishes and frogs,[~~)~~] with lights or other means designed to blind wildlife or make wildlife visible at night.

Section 7. KRS 150.390 is amended to read as follows:

(1) No person shall possess, take, pursue, or attempt to take or pursue or otherwise molest any deer, wild turkey or bear ***in any manner contrary to any provisions of this chapter or its regulations*** [~~unless the commissioner, with the approval of the commission, finds conditions and population that warrant an open season, and then regulations shall be enacted to govern same~~].

(2) ***No*** [~~It is unlawful for any~~] person ***shall*** [~~to~~] use a dog to chase or molest deer in any manner, at any time, or at any place. Any conservation officer, peace officer, sheriff or constable may take necessary steps to stop, prevent, or bring under control any dog, or dogs, found chasing or molesting deer at any time.

[~~(3) It shall be unlawful to shoot or attempt to shoot any wildlife, protected or unprotected, from an automobile, or other vehicle, at any time or place. Boats may be used except as prohibited by state or federal regulations.~~

~~(4) It shall be unlawful to take, pursue, or attempt to take or pursue or otherwise molest any deer or wild turkey in any manner contrary to regulations promulgated under the authority of subsection (1) of this section.~~]

Section 8. KRS 150.450 is amended to read as follows:

(1) The department shall promulgate reasonable regulations governing the taking of minnows and crayfish from the waters of the Commonwealth. The regulations shall prescribe the type of gear to be used, and shall prescribe the types of minnows and crayfish that may be taken and the purposes for which they may be used.

(2) Any person possessing a commercial fishing license may take rough fishes, by the use of commercial fishing gear, the types and specifications of which shall be prescribed by the department by regulation.

(3) No person shall operate or have in possession any commercial fishing gear as prescribed by regulation unless he has procured a commercial fishing license [~~or an Ohio River commercial fishing license~~] and a tag for the use or possession of each piece of commercial fishing gear and has complied with the provisions of this chapter or the regulations of the department. The tags shall be affixed to and displayed on each piece of commercial fishing gear at all times. This section shall not be construed to require retail or wholesale dealers, or manufacturers to obtain licenses and tags for commercial fishing gear in their possession.

Section 9. KRS 150.460 is amended to read as follows:

(1) No person, firm or corporation, whether acting in a private or public capacity, shall place or cause to be placed in any public waters any substance that might injure, interfere with or cause the waters to be unfit for the support of wildlife. When any employee of a person, firm or corporation, in the course of his employment, places or causes to be placed any such substance in any public waters, his act shall be prima facie evidence of the guilt of both the employee and the employer, and either one (1) or both may be punished as provided in subsection ***(7)*** [~~(4)~~] of KRS 150.990. Each day that this section is violated shall constitute a separate offense. This section does not apply to employees or agents of the department acting in an official capacity.

(2) No person shall use, or attempt to use any electrical device***,*** [~~(~~fish-finding devices excepted***,***~~)~~] of any type***,*** [~~(~~such as telephone, or electrical leads from a magneto, or battery, or motor or any other type of electrical equipment***,***~~)~~] in any stream or body of water. This does not prevent the authorized employees or agents of the department from using this or any devices in research or investigational work.

(3) No person, except employees or agents of the department, shall willfully place or attempt to place in any of the public waters of the state any substance which has a poisonous or intoxicating effect upon wildlife.

(4) No person shall kill, injure, shock or stun or attempt to kill, injure, shock or stun any fishes by any explosive agent, firearm or other device. This provision shall not apply to employees or agents of the department acting in an official capacity.

Section 10. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, [~~150.237,~~] 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231 for first offense only, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 11. KRS 150.990 is amended to read as follows:

(1) Each bird, fish or animal taken, possessed, bought, sold or transported and each device used or possessed contrary to the provisions of this chapter or any regulation adopted by the ***commission*** [~~commissioner~~] thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any regulations adopted by the commission ***thereunder may, in addition to the penalties provided in subsection (3), (4), (5), (6), (7) and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license, and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced or remitted otherwise than expressly provided by law. Any person who violates any regulation which has been or may be adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out or limits*** [~~hereunder, for which no definite fine or imprisonment is fixed, shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100)~~].

(3) Any person who violates any of the provisions of ***KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, subsections (1) or (2) of KRS 150.092, subsection (1) of KRS 150.235 and 150.670, subsection (2) of KRS 150.330 or 150.470, or any of the provisions of this chapter or any regulation adopted by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200)*** [~~subsections (1) and (2) of KRS 150.180, 150.300, 150.330, subsection (2) of KRS 150.360, 150.370, 150.485 or 150.600 shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months, or both~~].

(4) Any person who violates any of the provisions of KRS ***150.180, 150.290, 150.300, 150.340, 150.360, 150.445, 150.485, 150.510, 150.600, 150.630, 150.660, subsection (1) of KRS 150.450 or 150.470, subsection (2) of KRS 150.670 shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700*** [~~150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to such penalties shall be liable to the department in an amount reasonably necessary to restock such fish or replenish such other wildlife which has been killed or destroyed~~].

(5) Any ***person who violates any of the provisions of KRS 150.190, 150.411, 150.412, 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500)*** [~~licensee who violates any provisions of this chapter or any regulations adopted by the commissioner thereunder shall, in addition to the penalties provided in subsections (2), (3) and (4) of this section, forfeit his license and shall not be permitted to purchase another license for the same calendar year~~].

(6) Any ***person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, subsection (1) of KRS 150.330, or subsections (2), (3), (4) of KRS 150.235 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment for not more than six (6) months or both*** [~~county clerk, deputy clerk or agent who knowingly makes a false entry upon a license record or report, in violation of subsection (2) of KRS 150.190 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500)~~].

(7) Any person who violates ***any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount reasonably necessary to restock the fish or replenish other wildlife which has been killed or destroyed*** [~~the provisions of KRS 150.390(1), (2) or (3) shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500)~~].

(8) Any person who violates ***any of the provisions of KRS 150.4111, 150.520, 150.525, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100)*** [~~the provisions of KRS 150.390(4), 150.690 or 150.700 shall be fined not less than three hundred dollars ($300)~~] nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(9) Any person who violates ***any of the provisions of KRS 150.390, or subsection (3) of KRS 150.092 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey or bear taken in violation of KRS 150.390 and for violations of subsection (3) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages*** [~~the provisions of KRS 150.390(4) shall, in addition to the penalties prescribed in subsection (8) of this section, forfeit his hunting license and shall not be permitted to apply nor be issued a hunting permit for a period of one (1) to three (3) years and in addition shall be liable to the department in an amount reasonably necessary to replace any deer or wild turkey taken in violation of KRS 150.390(4)~~].

(10) Any person who violates ***any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor*** [~~KRS 150.525 shall be fined not less than twenty-five dollars ($25), nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months, or both~~].

(11) [~~Any person who violates any regulation which has been or may be hereafter adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out or limits.~~

~~(12) Any person violating the provisions of subsection (1) of KRS 150.670, shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100).~~

~~(13) Any nonresident who violates KRS 150.235, subsection (2) or (3), shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200).~~

~~(14) No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced or remitted otherwise than expressly provided by law.~~

~~(15) Any person who violates any provision of KRS 150.183 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.~~

~~(16) Any holder of a commercial fishing license who violates any statute or regulation relating to the taking of fish by linear net or nets and any person, who without a commercial fishing license, takes fish or attempts to take fish by linear net or nets shall be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one (1) year, or both.~~

~~(17) Any person who violates any provision of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.~~

~~(18)~~] Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be subject to the penalties specified for such offense under KRS Chapter 507 or 508, as appropriate.

***(12)***[~~(19)~~] A person shall be guilty of a Class B misdemeanor upon the first violation of KRS 150.710. A subsequent violation shall be a Class A misdemeanor.

Section 12. The following KRS section is repealed:

150.237 Short term nonresident hunting license.

The Committee Amendment No. 1 to **SB 217** is as follows:

Amend printed copy of **SB 217** on page 26, lines 23 and 24, by placing brackets around and striking through the following: ", or imprisoned for not less than thirty (30) days nor more than one (1) year, or both"

**SB 249**, AN ACT relating to hearings of the Natural Resources and Environmental Protection Cabinet.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.083 is amended to read as follows:

(1) All hearings under this chapter shall be held before a qualified hearing officer, who may be a full-time employe of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, [~~then~~] the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file within ***fourteen (14)*** [~~seven (7)~~] days of receipt exceptions thereto. The secretary shall consider the report***, exceptions*** and recommended order and ***decide*** [~~pass upon~~] the case. The decision shall be served by mail upon all parties and shall be a final order of the cabinet.

(2) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of ***these*** [~~such~~] actions. The record of ***the*** [~~such~~] hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.035.

(3) All hearings conducted pursuant to this chapter shall be open to the public except as provided in KRS 224.035.

**SB 311**, AN ACT relating to special wastes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 224.868 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.876(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.866 and the provisions of KRS 224.896, 224.897 and 224.2203 to 224.2215 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580) and regulations issued pursuant thereto unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.864(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.864(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.866 but shall not be subject to the requirements of KRS 224.855(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.864, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350; and

(d) The cabinet [~~may promulgate special waste regulations that~~] ***shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall*** recognize the distinct differences between the category of special wastes and other hazardous ***wastes*** and solid wastes ***as defined in KRS 224.005(24)(a) and KRS 109.012(9)*** due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, record keeping, reporting, treatment, storage and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate where appropriate and if consistent with the policies of KRS 224.864 to 224.874 any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.864 and 224.866 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.864(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580) and regulations issued pursuant thereto.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to the Committee Substitute to HB 15, by Representative Callahan:

Amend printed copy of Committee Substitute to HB 15 on page 24, after line 26, by adding a new subsection (5) to read as follows:

"***(5) Any person who violates the provisions of Section 1, subsection (1)(c) or Section 2, subsection (1) or Section 7, subsection (2) of this Act shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00).***".

Floor Amendment No. 3 to the Committee Substitute to HB 15, by Representative Callahan:

Amend printed copy of Committee Substitute to HB 15 on page 1, line 21, after the word "office" and before the word "in" delete the new language "***who is defeated***"; and

On page 2, line 1, after the word "partisan" and before the word "election" delete the new language "***primary***"; and

On page 2, line 1, after the word "be" delete the new language "***ineligible as a***"; and

On page 2, line 2, by deleting line 2 in its entirety; and

On page 2, line 3, by removing the opening bracket "[" and by removing the strikethroughs from the existing language on lines 3 through 7; and

On page 2, line 7, before the period "." by removing the closing bracket "]"; and

On page 5, lines 11 through 13, by deleting lines 11 through 13 in their entirety; and

On page 5, line 16, after the word "any" and before the word "person" delete the new language "***eligible***"; and

On page 5, line 20, delete the new language "***Any candidate for city***"; and

On page 5, lines 21 and 22, by deleting lines 21 and 22 in their entirety; and

On page 5, line 23, delete the new language "***the same office in the regular election.***"; and

On page 5, line 25, before the word "person" delete the new language "***eligible***"; and

On page 19, line 18, after subsection "(2)" delete line 18 in its entirety; and

On page 19, lines 19 through 21, delete lines 19 through 21 in their entirety; and

On page 19, line 22, before the word "Candidates" delete "***(3)***"; and

On page 19, line 26, delete "***(4)***" and remove the brackets and strikethroughs from "(3)"; and

On page 20, line 9, delete "***(5)***" and remove the brackets and strikethroughs from "(4)"; and

On page 20, line 18, delete "***(6)***" and remove the brackets and strikethroughs from "(5)"; and

On page 20, line 21, delete "***(7)***" and remove the brackets and strikethroughs from "(6)"; and

On page 21, line 3 through line 26, by deleting lines 3 through 26 in their entirety; and

On pages 22, 23, and 24, by deleting pages 22, 23, and 24 in their entirety.

Floor Amendment No. 2 to **HB 732**, by Representative Overstreet:

Amend printed copy of **HB 732** on page 5, after line 14, by inserting the following:

"***The Alcoholic Beverage Control Board may contract with private alcoholic beverage licensees for the sale of alcoholic beverages.***"

Floor Amendment No. 3 to **HB 732**, by Representative Bronger:

Amend printed copy of **HB 732** on page 1, line 3, after the word "wine" by inserting the words "***or malt beverages;***

On page 1, line 12, after the word "wine" by inserting the words "***or malt beverages;***

On page 1, line 19, after the word "wine" by inserting the words "***or malt beverages;***

On page 2, line 1, after the word "wine" by inserting the words "***or malt beverages;***

On page 2, line 6, after the word "wine" by inserting the words "***or malt beverages;***

On page 2, line 9, after the word "wine" by inserting the words "***or malt beverages;***

On page 2, line 16, after the word "wine" by inserting the words "***or malt beverages;***

On page 2, line 18, after the word "wine" by inserting the words "***and malt beverages;***

On page 2, line 23, after the word "wine" by inserting the words "***or malt beverages;***

On page 2, line 25, after the word "wine" by inserting the words "***or malt beverages;***

On page 3, line 3, after the word "wine" by inserting the words "***and malt beverages;***

On page 3, line 7, after the word "wine" by inserting the words "***or malt beverages;***

On page 3, line 9, after the word "wine" by inserting the words "***or malt beverages;***

On page 3, line 11, after the word "spirits" by inserting the words "***or malt beverages;***

On page 3, line 17, after the word "wine" by inserting the words "***or malt beverages;***

On page 3, line 21, after the word "wine" by inserting the words "***or malt beverages;***

On page 3, lines 24-26, after the word "concerned", by removing the brackets and strikethroughs;

On page 4, lines 1-4, before the period ".", by removing the brackets and strikethroughs ;

On page 4, line 23, after the word "***wine***" by inserting the words "***or malt beverages***";

On page 5, line 5, after the word "wine", by inserting the words "***or malt beverages***";

On page 5, line 10, after the word "wine", by inserting the words "***or malt beverages***";

On page 5, line 11, after the word "spirits, by inserting the words "***or malt beverage***";

Floor Amendment No. 2 to SB 190, by Representative Crupper:

Amend printed copy of SB 190 on page 1, line 16, after "***(2)***" by inserting the following: "***None of the provisions of this Act shall apply to the landowner or his agent. (3)***"

Floor Amendment No. 1 to HB 492, by Representative A. Jones:

Amend printed copy of HB 492 on page 3, by deleting lines 2 through 4 in their entirety;

And on page 3, line 5, by renumbering subsection "***(6)***" as "***(5)***";

And on page 3, line 7, by renumbering subsection "***(7)***" as "***(6)***";

And on page 3, line 12, by renumbering subsection "***(8)***" as "***(7)***";

And on page 3, line 23, by renumbering subsection "***(9)***" as "***(8)***";

And on page 4, line 18, by deleting the words "***a covered county***" and inserting in lieu thereof the words "***the Commonwealth of Kentucky***";

And on page 5, line 6, by deleting the words "***a covered county***" and inserting in lieu thereof the words "***the Commonwealth***";

And on page 8, line 16, by deleting the words "***a covered county***" and inserting in lieu thereof the words "***the Commonwealth***";

And on page 10, line 24, by deleting the words "***a covered county***" and inserting in lieu thereof the words "***the Commonwealth***";

And on page 11, lines 3 and 4, by deleting the words "***a covered county***" and inserting in lieu thereof the words "***the Commonwealth***";

And on page 11, lines 11 and 12, by deleting the words "***a covered county***" and inserting in lieu thereof the words "***the Commonwealth***".

Floor Amendment No. 2 to HB 492, by Representative Heleringer:

Amend printed copy of HB 492 on page 8, line 14, by deleting "***twelve (12)***" and inserting in lieu thereof "***thirteen (13)***".

And on page 8, line 21, after "***Association.***" by inserting "***One (1) of the appointments shall be a representative of for-profit hospitals in Kentucky.***"

And on page 9, line 13, by deleting "***Four (4)***" and inserting in lieu thereof "***Five (5)***".

Floor Amendment No. 1 to the Committee Substitute to HB 515, by Representative Worthington:

Amend printed copy of HCS to HB 515 on page 14, line 7, after the word "made", by adding the following new language:

"***A maximum fund balance of two hundred fifty thousand dollars ($250,000) shall be permitted to be carried forward each fiscal year. The Department of Housing, Buildings and Construction shall distribute all funds in excess of this amount prior to July 15 of each fiscal year, beginning July 15, 1990.***".

Floor Amendment No. 1 to SB 255, by Representative R. Smith:

Amend printed copy of SB 255 delete everything after the enacting clause and insert the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

***(1) The Natural Resources and Environmental Protection Cabinet is directed to promulgate regulations which specifically address what liability surface mining permittees shall have to reclaim permit areas on which parties or forces not controlled by the permittee have disturbed the reclamation previously performed by the permittee. Such parties or forces not controlled by the permittee shall include, without limitation, acts of God, oil and gas operations, loggers, recreational vehicles and trespassers.***

***(2) The Natural Resources and Environmental Protection Cabinet is also directed to promulgate regulations which specifically set forth the procedure for transferring liability for reclamation of a surface mining permit to a party who will make a post mining use of the permit area."***

Floor Amendment No. 1 to **SB 217**, by Representative R. Smith:

Amend printed copy of **SB 217** on page 26, lines 23 and 24, by removing brackets and strike-throughs.

Floor Amendment No. 2 to the Committee Substitute to **HB 540**, by Representative Ackerson:

Amend printed copy of HCS to **HB 540** on page 2, below line 6, to add the following:

"Section 2. KRS 532.075 is amended to read as follows:

(1) Whenever the death penalty is imposed for a capital offense, and upon the judgment becoming final in the circuit court, the sentence shall be reviewed on the record by the Supreme Court. The circuit clerk, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court.

(2) The Supreme Court shall consider the punishment as well as any errors enumerated by way of appeal ***or otherwise appearing in the record.***

(3) With regard to the sentence, the court shall determine:

(a) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, and

(b) Whether the evidence supports the jury's or judge's finding of statutory aggravating circumstances as enumerated in subsection (2) of Section 2 of KRS 532.025, and

(c) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(4) Both the defendant and the Commonwealth shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

(a) Affirm the sentence of death; or

(b) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration.

(6) The Chief Justice shall assign to an administrative assistant who is an attorney the following duties:

(a) To accumulate the records of all felony offenses in which the death penalty was imposed after January 1, 1970, or such earlier date as the court may deem appropriate.

(b) To provide the court with whatever extracted information it desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant.

(c) To compile such data as are deemed by the Chief Justice to be appropriate and relevant to the statutory questions concerning the validity of the sentence.

(7) The administrative office of the courts shall provide such staff, services, and data as are necessary to proper consideration of any matter relating to the imposition of the death penalty in any case.

(8) The sentence review shall be in addition to the direct appeal, if taken, and the review and appeal shall be consolidated. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence."

Floor Amendment No. 1 to **SB 171**, by Representative Donnermeyer:

Amend printed copy of **SB 171** on page 5, below line 4, to add the following:

Section 4 of KRS 394.092 is amended to read as follows:

"[~~(1)~~] If after executing a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, conservator or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by the testator's remarriage to the former spouse.

[~~(2) This section shall apply to wills executed on or after July 15, 1982.~~]"

Floor Amendment No. 1 to the Committee Substitute to **HB 588**, by Representative B. Richardson:

Amend printed copy of HCS to **HB 588** on page 8, line 9, before "Any" to insert "***Except as provided for in KRS 272.291,***"; and

On page 11, line 21, following "sum" to insert "***, except as provided for in KRS 272.291,***".

Floor Title Amendment to **HB 3**, by Representative B. Smith:

Amend printed copy of **HB 3** by amending the title to read as follows:

"AN ACT relating to state employee health insurance."

Floor Amendment No. 1 to **HB 3**, by Representative B. Smith:

Amend printed copy of **HB 3** on page 1, after line 20 by adding

"Section 3. KRS 18A.225 is amended to read as follows.

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section; and

(b) The term "state employe" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employe may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the state board for elementary and secondary education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

(2) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may

contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employes. All state employes for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employes, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(5) If an employe moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage and health maintenance organization coverage under the provisions of this section.

(9) The health insurance contract or contracts for state employes shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984 shall be awarded for the period between October 1, 1984 and June 30, 1986.

***(10) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The Commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional Districts, members representing state government from each of the seven Congressional Districts, two (2) members representing retirees under 65, one member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of non-school state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 814**, by Representative Hancock:

Amend printed copy of HCS to **HB 814** on page 9, lines 25 and 26, and pages 10, 11, 12 and 13 in their entirety, and on page 14, lines 1 through 12, by deleting SECTION 4 in its entirety; and

By renumbering the remaining sections accordingly; and

On page 14, line 19, by deleting the word "***Those***" and by deleting lines 20 through 26 in their entirety and inserting in lieu thereof "***Employees of the Department for Adult and Technical Education shall remain under the personnel provisions of KRS Chapter 18A.***"; and

By deleting pages 15, 16 and 17 in their entirety; and

On page 18, by deleting lines 1 through 26 in their entirety and inserting in lieu thereof: "***(2) the State Board for Adult and Technical Education, with assistance from the Kentucky Department of Personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in the state for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as regular pay.***"; and

By deleting page 19 in its entirety and by deleting pages 20 through 46 in their entirety; and

On page 47, by deleting lines 1 through 8 in their entirety and by renumbering the remaining sections accordingly.

Floor Amendment No. 2 to the Committee Substitute to **HB 814**, by Representative Richards:

Amend printed copy HCS to **HB 814** on page 78, line 14, after "divisions of" place brackets around and strike through the word "***accreditation,***";

on page 79, line 16, after "divisions of" insert the word "***accreditation,***";

on page 79, line 17, after the word "research" insert the word "***and***" and place brackets around and strikethrough ",";

on page 79, line 17, after "evaluation" place brackets around and strikethrough ", and computer services"; and

on page 80, line 4, after the word "analysis," insert the words "***computer service,***".

Floor Title Amendment to **HB 126**, by Representative Long:

Amend printed copy of **HB 126** by amending the title to read as follows:

"AN ACT relating to birth records.".

Floor Amendment No. 1 to the Committee Substitute to **HB 693**, by Representative Blevins:

Amend printed copy of HCS to **HB 693** on page 2, line 16, after the "." by inserting the following language: "***Counties with an unemployment rate higher than the state average for each of the five (5) years preceding 1989 shall be exempt from the matching requirement in this section.***"

Representative Callahan moved that Floor Amendments No. 2 and No. 3 to the Committee Substitute to **HB 15** be withdrawn. Agreed.

The Clerk announced the following meetings:

The Committee on State Government, 8:30 a.m., March 16, 1990.

The Committee on Judiciary, 9:30 a.m., March 16, 1990.

The Committee on Appropriations and Revenue, March 16, 1990 upon adjournment.

The Budget Review Subcommittee on Economic Development, 8:00 a.m., March 16, 1990.

The Committee on Education, 6:30 p.m., tonight.

The Committee on Health and Welfare, today, upon adjournment.

## Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 16, 1990.

The motion that the House adjourn until 10:00 a.m., Friday, March 16, 1990 was adopted by voice vote.

## FRIDAY, MARCH 16, 1990

## FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Representative Louie Mack.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 15, 1990 be dispensed with and the same approved. Agreed.

### Report on Enrolled Bills

The Committee on Enrollment reported **HB 342, HB 399, HB 423, HB 544, HB 581, HB 586, HJR 57, HJR 119, HJR 120, HB 426** and **HB 443** have been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:06 a.m.)

### Senate Message

Announcing the passage of **SB 130, SB 375, SB 386, HB 212** and **HB 10** with Senate Amendment.

Message received on **HB 615**: The Senate has passed **HB 615** by way of Committee Substitute and respectfully requests that this Honorable Body concur with the Committee Substitute to **HB 615**.

### Report on Enrolled Bills

The Committee on Enrollment reported **SB 122** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:09 a.m.)

### Introduction of Bills and Resolutions

**HR 210**, by Representatives Ford and Jensen: A RESOLUTION adjourning in honor of Edwin A. Adams.

**HR 211**, by Representatives Morris and Curd: A RESOLUTION adjourning the House of Representatives in recognition of the plight of Terry Anderson and his sister, Peggy Say.

**HR 212**, by Representative J. Harper: A RESOLUTION urging the resignation of a state constitutional officer who continues to claim office after being duly convicted and sentenced by the Courts of Kentucky.

### Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolution:

Cities: **SB 405, SB 349.**

Economic Development and Tourism: **SCR 112.**

Elections and Constitutional Amendments: **SB 39, SB 209.**

Health and Welfare: **SB 326.**

State Government: **SB 363, SB 355.**

Transportation: **SB 183.**

### Report of Committees

The Committee on Economic Development and Tourism reported **HCR 169, HCR 170, HJR 178, HJR 179, SCR 73** with Committee Substitute attached thereto, **SCR 74, SJR 92** and **SJR 93** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HCR 169**, A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the Department of Parks.

WHEREAS, Kentucky has one of the most extensive state park systems in the United States; and

WHEREAS, the state parks of this Commonwealth serve as major tourist attractions; and

WHEREAS, the camping and lodging facilities of many of Kentucky's state parks are filled to capacity for long periods of time throughout the year; and

WHEREAS, many tourists have to make reservations for campsites, cabins, or rooms in the park lodge a year in advance because of a growing tourism industry in Kentucky; and

WHEREAS, tourists who are not able to reserve campsites or lodging facilities at Kentucky state parks in a reasonable period of time may begin to patronize state parks in other states that have the capability to meet the demand of a growing tourism industry;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Task Force on Economic Development and Tourism is directed to study the Department of Parks, its operation of the state parks system and the ability of each state park to meet the demands of a growing tourism industry.

Section 2. That the Task Force on Economic Development and Tourism shall consider and, as necessary, develop legislative proposals and recommendations to insure that the state's parks system can meet the demands of a growing tourism industry.

Section 3. That the Task Force on Economic Development and Tourism shall report its findings and recommendations to the Legislative Research Commission on or before August 1, 1991.

Section 4. Staff services to be utilized in completing this study are estimated to cost fifteen thousand dollars ($15,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

**HCR 170,** A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the Department of Fish and Wildlife Resources.

WHEREAS, the Department of Fish and Wildlife Resources, along with its system of wildlife refuges and department controlled lakes, is a great asset to this Commonwealth in its effort to promote the tourism industry in Kentucky; and

WHEREAS, the Department of Fish and Wildlife Resources has designed and constructed numerous boat ramps on many of the lakes within this Commonwealth which have provided hunters and fishermen with increased access to Kentucky's water resources; and

WHEREAS, the Department of Fish and Wildlife Resources has greatly enhanced the Commonwealth's fishing resources through its study of water resources and its fish stocking programs, and the Department has greatly improved the Commonwealth's wildlife resources through its study of wildlife habitat improvement and its trap and release programs for several species such as deer, turkey and grouse; and

WHEREAS, millions of dollars worth of hunting and fishing licenses are sold each year to residents and nonresidents who travel to different parts of this Commonwealth to enjoy their favorite fishing or hunting activity; and

WHEREAS, the General Assembly of this Commonwealth wants the Kentucky Department of Fish and Wildlife Resources to be the best of its kind in the United States and to insure that the Commonwealth can meet the demands of a growing tourism industry, for more hunting and fishing opportunities while at the same time protecting and conserving this Commonwealth's fish and wildlife resources for future generations;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Task Force on Economic Development and Tourism is directed to study the Department of Fish and Wildlife Resources, its system of wildlife refuges and department controlled lakes, and the ability of the Department to meet the demands of a growing tourism industry while at the same time protecting and conserving this Commonwealth's fish and wildlife resources for future generations.

Section 2. That the Task Force on Economic Development and Tourism shall consider and, as necessary, develop legislative proposals and recommendations to insure that the Commonwealth can meet the demands of a growing tourism industry while at the same time protecting and conserving this Commonwealth's fish and wildlife resources for future generations.

Section 3. That the Task Force on Economic Development and Tourism shall report its findings and recommendations to the Legislative Research Commission on or before August 1, 1991.

Section 4. Staff services to be utilized in completing this study are estimated to cost fifteen thousand dollars ($15,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

**HJR 178,** A JOINT RESOLUTION relating to the economic growth and development of Kentucky.

WHEREAS, the General Assembly of the Commonwealth of Kentucky recognizes that the Commonwealth comprises several major geographic regions, each differing in terms of economy, work force readiness and training, heritage and culture, terrain and other physical features; and

WHEREAS, in recent years various government, trade, and industry reports often have cited the Commonwealth's strained economic and work force infrastructure as an impediment to meeting the challenges of an emerging global marketplace; and

WHEREAS, the General Assembly finds that the Commonwealth, its agencies, and political subdivisions lack a clear and suitable direction for developing economic and work force strategies deemed appropriate to promoting and effectuating state and regional economic diversification, and to designing and implementing attendant work force readiness, training, and related support services; and

WHEREAS, the General Assembly further finds that the difficulties encountered by private and public sectors to diversify regional and local economies within the Commonwealth, and to create new and expanded job opportunities, are not the result of a single cause, but involve a complex range of human, economic, and physical factors; and

WHEREAS, the General Assembly further finds that before any rational state economic development strategy is developed, a partnership of local and state governments working closely with public and private educators, representatives of business, labor, and industry, and local citizenry must be forged to ensure that the Commonwealth's needs for new and expanded job opportunities are adequately met and placed in harmony with Kentucky's rich heritage; and

WHEREAS, the General Assembly declares that economic diversification is a legitimate economic strategy to mitigate the harsh realities of job displacement and layoffs; and

WHEREAS, recent public news accounts attest to the fact that disruptive economic forces are now at work throughout the Commonwealth, as evidenced by numerous actual and proposed plant closings and job layoffs, which are catastrophic to the communities and families affected; and

WHEREAS, it is the intent of the General Assembly to lessen the impacts of the economic upheavals associated with plant closings and major job displacements by directing the economic development and work force training and support service agencies of the Commonwealth to initiate immediately a strategic planning process capable of anticipating impending economic upheavals, and to take whatever steps are deemed appropriate to mitigate the effects of such situations; and, furthermore, it is the intent of the General Assembly that this process shall guide the rational application of the Commonwealth's limited economic and work force resources toward the goal of state and regional economic diversification by the year 2000;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Beginning July 30, 1990, and no later than fifteen (15) days following the end of each calendar quarter ending on December 31, March 30, June 30 and September 30, thereafter, the Cabinet for Economic Development shall submit to the Governor and the Legislative Research Commission a comprehensive economic and work force situation report identifying the at-risk-nature of severe and sudden job loss in counties anticipating or experiencing a job loss totaling more than two and one-half percent (2 1/2 %) of each county's work force during the preceding calendar quarter. Information contained in the report shall be submitted in a format that details all data on a county basis, and shall include the name and type of each business or industry involved, the number of employees affected by the anticipated or actual actions taken by each business or industry, and the steps taken or to be taken by any agency of the United States of America, the Commonwealth and its political subdivisions, and respective businesses and industries involved, to mitigate the circumstances and probable effects of such job losses or long-term layoffs. For the purposes of this Act, the term "long-term layoff" means any job layoff action lasting more than ninety (90) days, or which does not include a specific date for recalling the workers affected by such action.

Section 2. The comprehensive economic and work force situation report also shall identify the anticipated or actual location or placement of new businesses or industrial plants and expansions to existing businesses or industries within each county during the reporting period, and shall include, but not be limited to, information on the total number of employees to be hired, the total number of employees to be transferred from facilities outside the county in which the new or expanded facility is to be located, the estimated median wage for all non-management employees, the work force skill levels and the training needs to be required by the business or industry, the financial and other assistance requested of the Commonwealth by the business or industry, and the anticipated commitments to be made by the state.

Section 3. In addition to the comprehensive economic and work force situation report, the secretary of the Cabinet for Economic Development shall initiate a comprehensive strategic economic planning process which shall serve all agencies of the Commonwealth as the official state strategic economic and work force planning process to guide the development and coordination of state activities and plans applicable to the expenditure of public funds and other resources made available from any source for economic development and work force training, development, and retention.

Section 4. The secretary of the Cabinet for Economic Development shall report to the Task Force for Economic Development and Tourism by January 15, 1991, regarding his cabinet's progress in implementing the strategic planning process, as specified herein, and shall submit to the task force a comprehensive employment and training assessment and strategic economic planning report by October 31, 1991, and an addendum thereto, shall be submitted each October 31, thereafter.

Section 5. The comprehensive employment and training assessment and strategic planning report shall include, but not be limited to, a detailed analysis of the existing organizational structure of Kentucky's vocational and technical education delivery systems, an evaluation of the systems and equipment in Kentucky's vocational and technical training institutions, the salary compensation schedule for vocational and technical faculty, the manpower needs of each Kentucky county as affecting existing businesses and potential new industries, the expenditure of all state and federal funds for job training, job development and retention activities, and the identification of where private sector jobs will be established and where existing jobs are at risk. The report shall identify work force skill level needs, economic forces affecting existing and potential employment, and delineate all actions taken by the Cabinet for Economic Development and all other state government agencies within the reporting period that directly relate to the question of job creation and retention within the Commonwealth, and to actions taken by the Commonwealth to diversify the state's economy.

Section 6. All executive branch agencies of state government and state universities shall assist the Cabinet for Economic Development in whatever manner the secretary of the Cabinet for Economic Development deems necessary, and shall make available to the cabinet all data bases and other information pertinent to the purposes and intent of this Act.

Section 7. The cabinet's strategic planning report shall be analyzed by the Task Force for Economic Development and Tourism of the Legislative Research Commission, and shall be included in the task force's report to the 1992 Kentucky General Assembly, and the task force shall make any recommendations deemed appropriate to achieving the purposes of this Act.

**HJR 179**, A JOINT RESOLUTION directing the Cabinet for Economic Development, in conjunction with the Finance and Administration Cabinet and the Transportation Cabinet, to consider and develop plans for implementing a state administered surety bonding program in this Commonwealth.

WHEREAS, the small businesses of this Commonwealth are the backbone of Kentucky's economy; and

WHEREAS, small businesses that are unable to obtain surety bonds often experience business failure; and

WHEREAS, it falls to the state to establish an effective program to assist small businesses in their effort to obtain surety bonds; and

WHEREAS, once a small business is able to establish a record of successfully completing projects, they will then become more bondable in the private sector;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Cabinet for Economic Development, in conjunction with the Finance and Administration Cabinet and the Transportation Cabinet, shall consider and develop plans for implementing a state administered surety bonding program in this Commonwealth.

Section 2. That the Cabinet for Economic Development, in conjunction with the Finance and Administration Cabinet and the Transportation Cabinet, shall report their findings and recommendations to the Legislative Research Commission by July 15, 1991, for review by the appropriate interim joint committee or committees of jurisdiction.

**SCR 73,** A CONCURRENT RESOLUTION directing that a special committee be formed to study the potential impact of federal initiatives on the Kentucky economy and develop a state strategy for addressing those impacts.

WHEREAS, acid rain and other federal initiatives have the potential to impact the Commonwealth's economy severely; and

WHEREAS, the Commonwealth needs to be able to position itself quickly to respond to challenges and opportunities these federal initiatives may bring; and

WHEREAS, perspectives from the diverse regions of the Commonwealth are needed to fully analyze and develop appropriate strategies;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That a special committee be formed to study the potential impact of federal acid rain legislation and other federal initiatives on the Kentucky economy and to develop a state strategy for addressing these impacts.

Section 2. That the Legislative Research Commission shall make appointments to the special committee as follows: two (2) legislators representing the Task Force on Economic Development and Tourism; two (2) legislators representing the Task Force on Energy; two (2) legislators representing the Interim Joint Committee on Agriculture and Natural Resources; two (2) legislators representing the Small Business Task Force; and seven (7) representatives from area development districts. In its selection of the appointments from the area development districts, the Legislative Research Commission shall strive to represent both urban and rural economic development interests in those areas of the Commonwealth most vulnerable to proposed federal initiatives. The Legislative Research Commission shall select a legislator to chair the special committee.

Section 3. That in order to develop a strategic plan, the special committee shall monitor proposed federal legislation which may impact the Commonwealth's economy; analyze enacted legislation to determine ways the Commonwealth can mitigate any negative impacts; identify any economic development opportunities federal initiatives may offer; consider programs to assist Kentucky businesses to make them more efficient and thus more competitive; and identify those areas of the Commonwealth in special need for worker retraining or diversified industry.

Section 4. That in its study effort, the special committee is directed to solicit information from experts in the area of science, technology, and economics, both within and outside the Commonwealth. State agencies and the state universities shall be directed to cooperate with the special committee by providing information and other assistance as may be requested.

Section 5. That the committee shall submit a full report of its findings, together with recommendations and a developed strategy, to the Legislative Research Commission by no later than August 30, 1991.

Section 6. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

The Committee Substitute to **SCR 73** is as follows:

**SCR 73,** A CONCURRENT RESOLUTION directing that a special committee be formed to study the potential impact of federal initiatives on the Kentucky economy and develop a state strategy for addressing those impacts.

WHEREAS, acid rain and other federal initiatives have the potential to impact the Commonwealth's economy severely; and

WHEREAS, the Commonwealth needs to be able to position itself quickly to respond to challenges and opportunities these federal initiatives may bring; and

WHEREAS, perspectives from the diverse regions of the Commonwealth are needed to fully analyze and develop appropriate strategies;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Task Force on Energy shall study during the 1990-91 interim the potential impacts of federal acid rain initiatives on Kentucky's fossil fuel industries and the economies they support, and develop a state strategy for addressing the impacts of these initiatives.

Section 2. In respect to other federal initiatives that may have a potential impact on the state's economy, the Task Force on Economic Development and Tourism shall serve as the sole strategic research and evaluation body for the Legislative Research Commission. In regards to implementing its research and evaluation function, the task force may on its own initiative consider any matter that relates to the economic development of this state, including any federal initiative that may have a potential impact on the state's economy. Those federal initiatives and related issues deemed worthy and timely of study by the task force shall be given priority for study during the 1990-91 interim.

Section 3. That in regards to their respective responsibilities as prescribed in this resolution, the Task Force on Economic Development and Tourism and the Task Force on Energy shall solicit information from experts in the area of science, technology, and economics, both within and outside the Commonwealth. State agencies and the state universities shall cooperate with each task force by providing information and other assistance as may be requested.

Section 4. That the Task Force on Economic Development and Tourism and the Task Force on Energy shall submit reports of their respective findings, with recommendations, to the Legislative Research Commission by August 30, 1991.

Section 5. Staff services to be utilized in completing these study efforts are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

SCR 74, A CONCURRENT RESOLUTION directing the Task Force on Economic Development and Tourism to study the potential impacts of reductions in defense spending on the economy of Kentucky.

WHEREAS, the President of the United States has proposed to the Congress, pursuant to the Gramm-Rudman-Hollings budget balancing law, that the federal budget deficit for federal fiscal year 1991 be no more than $64 billion; and

WHEREAS, the President and his defense advisers have determined that total military spending for federal fiscal year 1991 need not rise above $292.1 billion, which is $6 billion less than needed to keep up with current inflation, considering lessened East-West tensions resulting from the reduced military threat of the Warsaw Pact; and

WHEREAS, the U. S. Department of Defense has determined that reduced military spending necessitates cutbacks and reductions in military forces and operations throughout the nation beginning in 1991; and

WHEREAS, as part of these proposed cutbacks, the Bush Administration has targeted several military installations in or near the Louisville metropolitan area, including: the proposed shutdown of the Louisville Naval Ordnance Station which would phase out 2,315 civilian jobs in the Louisville metropolitan area; the proposed reduction of 3,100 military personnel attached to the 194th Armored Brigade at Ft. Knox which may result in a projected annual payroll loss of $57.4 million to the area's economy; and, cutbacks in operations at the Army Ammunition Plant at Charlestown, Indiana, which would result in the phase out of 1150 civilian jobs within the Kentuckiana area by 1993; and

WHEREAS, in addition to these closings and personnel reductions, cutbacks in military procurement spending may adversely impact Kentucky industries and businesses currently providing goods and services to the nation's military forces;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. The Task Force on Economic Development and Tourism shall study the potential adverse impacts of reductions in defense spending on the economy of Kentucky, including the effects of: cutbacks in military procurement of Kentucky goods and services, proposed reductions in military and civilian personnel at Ft. Knox, Kentucky, and the proposed closure of the Louisville Naval Ordnance Station, which is scheduled to begin in late 1991 or early 1992.

Section 2. The task force shall consider and, as necessary, develop legislative proposals and recommendations in order to mitigate the effects of these proposed actions by the Department of Defense on the state's workforce and economy.

Section 3. The task force shall report its initial findings to the Legislative Research Commission on or before December 30, 1990, and it shall issue a final report to the Legislative Research Commission on or before September 30, 1991.

Section 4. Legislative Research Commission staff services to be utilized in the conduct of this study are estimated to cost $25,000, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the Commission.

**SJR 92,** A CONCURRENT RESOLUTION requesting the Secretary of Transportation to notify the United States Department of Energy of its intention to make various transportation improvements in McCracken County.

WHEREAS, the Paducah Gaseous Diffusion Uranium Enrichment Plant currently employs approximately 1500 workers, with hundreds and possibly even thousands of other citizens being employed indirectly in various capacities as a result of the plant's existence; and

WHEREAS, the United States Department of Energy is currently developing a new uranium enrichment process known as U-AVLIS, uranium atomic vapor laser isotope separation; and

WHEREAS, the new U-AVLIS uranium enrichment process will make the technology currently used at the Paducah plant obsolete; and

WHEREAS, the United States Department of Energy is currently evaluating Portsmouth, Ohio; Oak Ridge, Tennessee; and Paducah, Kentucky, as potential sites for the location of the new U-AVLIS plant; and

WHEREAS, the new U-AVLIS plant, if built in Kentucky, would represent an investment of $1 billion in federal tax dollars for capital construction, and this investment of federal tax dollars would create thousands of construction jobs; and

WHEREAS, once the U-AVLIS plant is fully on line it will provide steady, quality work for 1,300 people, and hundreds and possibly even thousands of other jobs will be retained as a result of the U-AVLIS Plant; and

WHEREAS, the United States Department of Energy plans to choose the final site for the U-AVLIS plant by mid 1992 with the preliminary site being chosen in late 1991; and

WHEREAS, if U.S. 60 is not widened to four lanes, from the I-24 interchange to the Paducah Gaseous Diffusion Uranium Enrichment Plant's access road, and if the rail line from Paducah to the plant is not upgraded, Paducah will not be chosen as the site for the new U-AVLIS plant; and

WHEREAS, the widening of U.S. 60 to four lanes, from the I-24 interchange to the Paducah Gaseous Diffusion Uranium Enrichment Plant's access road, and upgrading the rail line from Paducah to the plant will insure that Paducah remains a contender for the new U-AVLIS plant;

NOW, THEREFORE,

*Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. That the Transportation Cabinet express its intention to the United States Department of Energy to widen U.S. 60 to four lanes, from the I-24 interchange to the access road leading to the Paducah Gaseous Diffusion Uranium Enrichment Plant by the inclusion of U.S. 60 in the six-year road construction plan that is to be presented to the 1990 General Assembly.

Section 2. That the Transportation Cabinet express its intention to immediately establish a cost estimate to upgrade the rail line from Paducah to the Paducah Gaseous Diffusion Uranium Enrichment Plant.

Section 3. That the Transportation Cabinet notify the United States Department of Energy of its schedule for completion of the U.S. 60 project and report its findings on the cost estimates, for rail improvements to the United States Department of Energy within three (3) days after the effective date of this Resolution.

Section 4. That a copy of this Resolution be sent to the Secretary of the United States Department of Energy, the Governor of the Commonwealth of Kentucky, the secretary of the Kentucky Transportation Cabinet, and the secretary of the Kentucky Cabinet for Economic Development and Tourism.

**SJR 93,** A JOINT RESOLUTION directing the Cabinet for Economic Development to establish and continue the statewide Wood Industry Leadership Commission.

WHEREAS, the Kentucky Wood Industry Leadership Network has been created and charged by the Cabinet for Economic Development with responsibility for reviewing the recommendations of the Forest Products Industry Task Force and its accompanying Five-Year Targeted Investment and Marketing Plan; and

WHEREAS, the current active status of the Leadership Network is made possible under Appalachian Regional Commission grant 89-121, which is scheduled to end September 30, 1990; and

WHEREAS, the Leadership Network, at its preliminary meeting held February 10, 1990, found that the level of effort which would be required to evaluate, prioritize and estimate the cost of the specific initiatives contained in the Five-Year Plan was too great to allow for specific and meaningful funding requests to be made to the 1990 session of the Kentucky General Assembly; and

WHEREAS, the Leadership Network and the Cabinet for Economic Development feel it is imperative that the evaluation, prioritizing, and policy guidance functions of the Leadership Network be continued through the 1991-1992 biennium if the Commonwealth is to most effectively direct the development of the wood products industry in Kentucky; and

WHEREAS, the Leadership Network seeks to receive further official definition of its own scope of authority, responsibility and accountability;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Cabinet for Economic Development be directed to formally establish and continue on a statewide basis through the 1992 fiscal year the Kentucky Wood Industry Leadership Commission, whose charge shall be to prioritize and further define the recommendations outlined in the Kentucky Forest Products Industry Task Force report in order that these initiatives may be efficiently implemented.

Section 2. That the membership of the commission shall consist of the Secretary of the Economic Development Cabinet, who shall serve as the chairman of the commission, and those persons currently serving upon the Kentucky Wood Industry Leadership Network, and shall be limited to no more than twelve (12) members. As vacancies in the membership of the commission occur, the Secretary of the Cabinet for Economic Development shall appoint replacement members to the commission; however, the membership of the commission shall at all times include representatives of the Commonwealth's primary wood industry, representatives of the secondary wood industry, representatives of the state's universities, and a representative of the state's forestry division.

Section 3. That the Leadership Commission shall receive staff and administrative support from the Cabinet for Economic Development.

Section 4. That the members of the commission shall not be paid for their services, but shall be reimbursed for their expenses in participating in commission activities and meetings.

Section 5. That all state agencies shall report to the commission any information requested.

Section 6. That the commission shall submit reports on a quarterly basis, through September 1, 1991, to the legislative Task Force on Economic Development and Tourism. The last report due to the task force on September 1, 1991, shall include all recommendations developed by the commission for consideration by the 1992 General Assembly.

## Calendar

**HB 900, SB 242, HB 801, SB 280, SB 290, HB 25, HB 184, HB 199, HB 621, HB 795, HB 889, SB 51, SB 103, SB 125, SB 172, SB 173, SB 180, SB 305, HB 552, HB 705, HB 747, HB 751, HB 766, HB 868, HJR 60, HJR 164, HJR 185, HB 778, HB 842, HB 845, SB 17, SB 211, SB 224, SB 289, SB 340, SCR 105, SB 181, SB 144, HB 860, SCR 109, HB 80, HB 620, HB 748, HB 792, HB 893, HB 915, HCR 155, HCR 161, SB 155, SB 217, SB 249** and **SB 311** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

## Consent Calendar

**HB 867** and **SB 315** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

## Orders of the Day

**HB 12**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 12** is as follows:

Amend printed copy of **HB 12** on page 3, line 21, by deleting "***of the County Employees Retirement***"; and

on page 3, by deleting lines 22 through 24; and

on page 3, line 25, by deleting "***member***"; and

on page 4, line 1, by adding after the word "service" and before the period the words:

"***but a member of the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance***"; and

on page 8, line 14, by deleting "***of the Kentucky Employees Retirement***"; and

on page 8, line 15, by deleting "***System***".

Representative Castleman moved that the House concur in Senate Amendment No. 1 to **HB 12**. Agreed

Representative Castleman moved that **HB 12**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 16, 1990 roll call on **HB 12** - Appendix.)

**HB 12**, as amended by the Senate, was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 12**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 580**, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 580**. Agreed.

Representative Clarke moved the adoption of Committee Amendment No. 2 to **HB 580**. Agreed.

Representative Clarke moved that **HB 580**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 16. (See March 16, 1990 roll call on **HB 580** - Appendix.)

**HB 580**, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 580**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 648** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **HB 648** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 16, 1990 roll call on **HB 648** - Appendix.)

**HB 648** was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 648** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 50** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jensen moved that **HCR 50** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 16, 1990 roll call on **HCR 50** - Appendix.)

**HCR 50** was passed and the title agreed to.

Representative Jensen moved that the vote by which **HCR 50** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 158** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that **HCR 158** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1990 roll call on **HCR 158** - Appendix.)

**HCR 158** was passed and the title agreed to.

Representative White moved that the vote by which **HCR 158** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 783**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **HB 783**. Agreed.

Representative LeMaster moved that **HB 783**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1990 roll call on **HB 783** -- Appendix.)

**HB 783**, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 783**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HJR 174** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HJR 174** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 16, 1990 roll call on **HJR 174** - Appendix.)

**HJR 174** was passed and the title agreed to.

Representative Lewis moved that the vote by which **HJR 174** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 515**, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of Committee Substitute to **HB 515**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 515**. Agreed.

Representative Gregory moved that **HB 515**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1990 roll call on **HB 515** - Appendix.)

**HB 515**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 515**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 664** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that **HB 664** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 16, 1990 roll call on **HB 664** - Appendix.)

**HB 664** was passed and the title agreed to.

Representative White moved that the vote by which **HB 664** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 274** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 274** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 16, 1990 roll call on **HB 274** - Appendix.)

**HB 274** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 274** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 403**, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Substitute to **HB 403**. Agreed.

Representative Kerr moved that **HB 403**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 2. (See March 16, 1990 roll call on **HB 403** - Appendix.)

**HB 403**, by way of Committee Substitute, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 403**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 830**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of Floor Amendment No. 1 to **HB 830**. Agreed.

Representative T. Jones moved that **HB 830**, as amended, be passed.

On the roll call the vote was: Yeas 55, Nays 29. (See March 16, 1990 roll call on **HB 830** - Appendix.)

**HB 830**, as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 830**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 514**, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Committee Amendment No. 2 to **HB 514**. Agreed.

Representative Napier moved the adoption of Committee Amendment No. 1 to **HB 514**. Agreed.

Representative Hancock moved that **HB 514**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 16, 1990 roll call on **HB 514** - Appendix.)

**HB 514**, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 514**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 726** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 726** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1990 roll call on **HB 726** - Appendix.)

**HB 726** was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 726** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 752** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 752** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1990 roll call on **HB 752** - Appendix.)

**HB 752** was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 752** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 753** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 753** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 16, 1990 roll call on **HB 753** - Appendix.)

**HB 753** was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 753** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 781** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pritchett moved that **HB 781** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 16, 1990 roll call on **HB 781** - Appendix.)

**HB 781** was passed and the title agreed to.

Representative Pritchett moved that the vote by which **HB 781** was passed be reconsidered and said motion be placed on the table. Agreed.

**HJR 124** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HJR 124** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 16, 1990 roll call on **HJR 124** - Appendix.)

**HJR 124** was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HJR 124** was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 159** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HCR 159** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1990 roll call on **HCR 159** - Appendix.)

**HCR 159** was passed and the title agreed to.

Representative Geveden moved that the vote by which **HCR 159** was passed be reconsidered and said motion be placed on the table. Agreed.

**HJR 173**, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Floor Amendment No. 1 to **HJR 173**. Agreed.

Representative Richards moved that **HJR 173**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1990 roll call on **HJR 173** - Appendix.)

**HJR 173**, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HJR 173**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HCR 175** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HCR 175** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 16, 1990 roll call on **HCR 175** - Appendix.)

**HCR 175** was passed and the title agreed to.

Representative Lewis moved that the vote by which **HCR 175** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 3**, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 3**. Agreed.

Representative B. Smith moved that **HB 3**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1990 roll call on **HB 3** - Appendix.)

**HB 3**, as amended, was passed.

Representative B. Smith moved the adoption of Floor Title Amendment to **HB 3**. Agreed; and the title was agreed to.

Representative B. Smith moved that the vote by which **HB 3**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 126**, with Committee Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 126**. Agreed.

Representative Todd moved that **HB 126**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See March 16, 1990 roll call on **HB 126** - Appendix.)

**HB 126**, as amended, was passed.

Representative Todd moved the adoption of Floor Title Amendment to **HB 126**. Agreed; and the title was agreed to.

Representative Todd moved that the vote by which **HB 126**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 670**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved the adoption of Committee Amendment No. 1 to **HB 670**. Agreed.

Representative Ward moved that **HB 670**, as amended, be passed.

On the roll call the vote was: Yeas 45, Nays 32. (See March 16, 1990 roll call on **HB 670** - Appendix.)

**HB 670**, as amended, was passed and the title agreed to.

Representative Ward moved that the vote by which **HB 670**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 275**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Committee Amendment No. 1 to **HB 275**. Agreed.

Representative Stumbo moved that **HB 275**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 16, 1990 roll call on **HB 275** -- Appendix.)

**HB 275**, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 275**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 277** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 277** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 16, 1990 roll call on **HB 277** -- Appendix.)

**HB 277** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 277** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 281** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 281** be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See March 16, 1990 roll call on **HB 281** - Appendix.)

**HB 281** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 281** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 282** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 282** be passed.

On the roll call the vote was: Yeas 83, Nays 8. (See March 16, 1990 roll call on **HB 282** - Appendix.)

**HB 282** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 282** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 283** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 283** be passed.

On the roll call the vote was: Yeas 83, Nays 7. (See March 16, 1990 roll call on **HB 283** - Appendix.)

**HB 283** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 283** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 284** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 284** be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 16, 1990 roll call on **HB 284** - Appendix.)

**HB 284** was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 284** was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 828**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 828**. Agreed.

Representative B. Smith moved that **HB 828**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See March 16, 1990 roll call on **HB 828** - Appendix.)

**HB 828**, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 828**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 453** with Senate Committee Substitute and Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative B. Smith moved that **HB 453**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 66, Nays 25. (See March 16, 1990 roll call on **HB 453** - Appendix.)

**HB 453**, as amended by the Senate, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 453**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 215**, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 215** is as follows:

Amend printed copy of **HB 215** on page 14, after line 14, by inserting the following:

"Section 9. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan ***shall*** [~~can~~] be acquired only by service as a legislator after July 1, 1980, while a member of the plan, [~~or~~] by transfer of credit as provided in KRS 6.505***, or by purchase of military service credit pursuant to subsection (2) of this section.***

(2) ***(a) Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.***

***(b) The beneficiary may purchase military service credit only at one (1) time by lump sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.***

***(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 6.505(2).***

***(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.***

*(3)* If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

*(4)*[~~(3)~~] In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

*(5)*[~~(4)~~] A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and *the* [~~such~~] service credit shall become part of the single account authorized by subsection (2) of this section."; and

On page 14, line 15, by deleting "Section 9." and inserting "Section 10." in lieu thereof.

Representative Hancock moved that the House concur in Senate Amendment No. 1 to **HB 215**. Agreed

Representative Hancock moved that **HB 215**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 42, Nays 29. (See March 16, 1990 roll call on **HB 215** - Appendix.)

**HB 215**, as amended by the Senate, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 215**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 838**, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 838**. Agreed.

Representative Burch moved that **HB 838**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 16, 1990 roll call on **HB 838** - Appendix.)

**HB 838**, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 838**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 887**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 1 to **HB 887**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 887**. Agreed.

Representative Burch moved that **HB 887**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1990 roll call on **HB 887** - Appendix.)

**HB 887**, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 887**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 888**, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 888**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to **HB 888**. Agreed.

Representative Burch moved that **HB 888**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 12. (See March 16, 1990 roll call on **HB 888** - Appendix.)

**HB 888**, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 888**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**HB 301** with Senate Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 301** is as follows:

Amend printed copy of **HB 301** on page 1, after line 15, add the following section:

"Section 2. KRS 177.035 is amended to read as follows:

Whenever the Kentucky state department of highways shall determine that it is necessary that any fireplugs, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, belonging to any municipality or a municipally-owned utility, or any ***utility regulated by the Public Service Commission pursuant to KRS Chapter 278,*** [~~water district established pursuant to KRS Chapter 74~~] or any sanitation district established pursuant to KRS Chapter 220, must be removed or relocated on, along, over or under a highway, in order to construct, reconstruct, relocate or improve any such highway, the municipality or the municipally-owned utility or the ***utility regulated by the Public Service Commission*** [~~water district~~] or the sanitation district shall relocate or remove same in accordance with the order of the department of highways; and the costs and expenses of such relocation or removal, including the costs of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interest in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the department of highways as a part of the cost of improving or constructing such highways."

Representative Hancock moved that the House refuse to concur in the Senate Floor Amendment No. 2 to **HB 301**. Agreed.

**HB 540**, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Ackerson moved the adoption of Committee Substitute to **HB 540**. Agreed.

Representative Ackerson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 540**. Agreed.

Representative Ackerson moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 540**. Agreed.

Representative Ackerson moved that **HB 540**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 52, Nays 30. (See March 16, 1990 roll call on **HB 540** - Appendix.)

**HB 540**, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 540**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

**Motions, Petitions and Communications**

Representative Hancock moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative Hancock moved the adoption of the following Legislative Citation No. 66. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Col. John C. Parrish for your outstanding service and dedication to the United States Army. Your military career has taken you from Frankfort, Kentucky to points around the world. During these travels your high standard of performance has brought you and your family honor and recognition. Your achievements are marked by the receipt of the Distinguished Flying Cross, several awards of the Bronze Star and many awards of the Air Medal.

This prestigious body joins Representative Hank Hancock in honoring Col. John C. Parrish for your 30th year of distinguished military service. We extend to you and your family our best wishes for a safe, prosperous and happy future.

Representative Morris moved the adoption of the following **HR 211**:

**HR 211**, A RESOLUTION adjourning the House of Representatives in recognition of the plight of Terry Anderson and his sister, Peggy Say.

WHEREAS, Terry Anderson was Chief Middle East Correspondent for the Associated Press when he was abducted five years ago on March 16, 1985, in Beirut, Lebanon; and

WHEREAS, Terry Anderson has suffered at the hands of ruthless tyrants and oppressors who have never tasted liberty and freedom, and who have themselves, been bound by despotic powers that are abusively cruel and lacking respect for human life; and

WHEREAS, Peggy Say, the sister of Terry Anderson, has worked continuously toward gaining her brother's freedom, a five-year task that has been frustrating and unrewarding; and

WHEREAS, the plight of Terry Anderson has resulted in over 1,800 days of unjustified captivity and cruel and inhuman treatment;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body abhors the indignations and actions of these tyrants and oppressors who have so cruelly deprived Terry Anderson, an American citizen, of his right to freedom.

Section 2. That this honorable body salutes Peggy Say for the love she has so unselfishly displayed for her brother, Terry Anderson, and for her continuous effort toward restoring her brother's freedom to return to his homeland.

Section 3. That when the House of Representatives adjourns this day, Friday, March 16, 1990, it does so in honor of Terry Anderson, American hostage in the Middle East.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Peggy Say, 438 Lakeshore Drive, Cadiz, Kentucky 42211.

**HR 211** was adopted by voice vote.

Representative Morris moved that a call of the roll be taken to show co-sponsors of **HR 211**.

On the roll call the vote was yeas 94—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Curd, Curtsinger, Cyrus, Deskins, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, A. Jones, T. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nett, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Sheehan, Siler, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Ward, White, Worthington, Yates, Zimmerman. Nays 00.

Representative J. Harper moved the adoption of the following **HR 212**:

**HR 212**, A RESOLUTION urging the resignation of a state constitutional officer who continues to claim office after being duly convicted and sentenced by the courts of Kentucky.

WHEREAS, the citizens of the Commonwealth have every right to expect their elected state officials to be examples of honesty and integrity; and

WHEREAS, our citizens have every reason to doubt the effectiveness of elected state officials who continue to serve in office after having been tried, convicted, and sentenced by the Kentucky courts; and

WHEREAS, it is an affront to the citizens of the Commonwealth and to other officeholders that a constitutional officer will continue to claim office after being tried, convicted, and sentenced by the courts of the Commonwealth; and

WHEREAS, failure of the individual who continues to claim office to resign from office is an affront to the moral ethic that is the guiding principle of all who hold office under the public trust; and

WHEREAS, it is hoped the matter can be resolved satisfactorily by the resignation of the individual claiming office so that the duties of the office can effectively serve and benefit the citizens whom the department is charged to serve.

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the individual who continues to claim office be urged to resign voluntarily and step down from office so that the duties of his department may continue without this cloud hanging over the administration of that department.

Section 2. That a copy of this resolution be sent to the individual.

**HR 212** was adopted by voice vote.

Representative Ford moved the adoption of the following **HR 210**:

**HR 210**, A RESOLUTION adjourning in honor of Edwin A. Adams.

WHEREAS, in 1948, Edwin A. Adams sustained the transition of the old State Patrol officer system to the present State Police officer system; and

WHEREAS, as part of this transition Edwin A. Adams attended the first Trooper Cadet Class and was one of those distinguished 120 attending the class to make history by being sworn in as the Commonwealth's first State Police officers; and

WHEREAS, in 1941, Edwin A. Adams also made history when he played on the last football team at Transylvania University;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That this honorable body commends Edwin A. Adams on his service to the Commonwealth.

Section 2. That the House of Representatives recognizes Edwin A. Adams' place in Kentucky's history.

Section 3. That when the House of Representatives adjourns today, Friday, March 16, 1990, it does so in honor of Edwin A. Adams.

Section 4. That the Clerk of the House send a copy of this resolution to Edwin A. Adams, 218 East Pittsburg Church Road, Pittsburg, Kentucky.

**HR 210** was adopted by voice vote.

Representative Mason moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative Mason moved the adoption of the following Legislative Citation No. 64. Agreed.

The House of Representatives of the Commonwealth of Kentucky congratulates the Fleming-Neon High School Girls' Basketball Team for capturing the 1989-90 Regional Class A Championship. Whereas, through effort, dedication, discipline and team work, this team has achieved this lofty goal and much-deserved honor. Now let is be known that this prestigious body extends its hearty congratulations and best wishes for continued success and excellence.

Representative P. Richardson moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 65. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends The Clay City Times for your promotion of journalism and involvement with the students of Powell County Middle School. Participation of Clay City Times staff in this program demonstrates commitment to scholastic attainment and academic development of Powell County students. Through your committed service, young Kentuckians have gained a broader education, a greater appreciation of life, and a brighter future.

This prestigious body joins Representative Paul W. Richardson in saluting The Clay City Times. We extend to you our appreciation and best wishes for continued success with future student projects.

Representative P. Richardson moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 68. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Michael Anderson for your top reporting skills. Your participation in the Clay City Times Cub Reporter program demonstrates a keen interest to learn about the field of journalism. Your achievements in this area were recognized by WKYT-TV's program Traveling On.

This prestigious body joins Representative Paul W. Richardson in recognizing Michael Anderson for your outstanding reporting skills. We extend to you our best wishes for continued success in the future.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

**HB 429**, Representatives Ackerson; **HB 439**, by Representative McBee; **HB 515**, Representative Blevins; **HB 762**, by Representatives Ackerson, Casebier; **HB 763**, by Representatives Ackerson, Casebier; **HB 816**, Representative Riner; **HB 866**, Representative Geveden.

Representative Stumbo moved that the vote by which **HR 212** was adopted be reconsidered. Agreed.

Representative Stumbo moved that **HR 212** be laid on the table. Agreed.

Representative Johnson moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

**HR 213**, by Representatives Johnson, Blandford and McElroy: A RESOLUTION commending and honoring Owensboro Catholic High School.

Representative Johnson moved the adoption of the following **HR 213**:

**HR 213**, A RESOLUTION commending and honoring Owensboro Catholic High School.

WHEREAS, Owensboro Catholic High School boys' basketball team reaped the runner-up title in the 9th district tournament; and

WHEREAS, all Kentuckians are proud of the character displayed by this team; and

WHEREAS, their character exemplifies the best qualities of youth and constitutes an inspiration and model for every high school student; and

WHEREAS, the Commonwealth is especially proud of Owensboro Catholic High School boys' basketball team; their athletic director Russell Coones; boys' coach Danny Mattingly; boys' assistant coaches Tom Mattingly, Bruce Embry, Tim Flaherty, and Ray Zubeher; for winning runner-up in the 9th district tournament;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Owensboro Catholic High School's Principal Joseph O'Bryan; Dean of Students, Father

Freddie Byrd; Vice Principal in charge of student activities, Bruce Embry; Vice Principal in charge of academics, Harold Staple; its boys' basketball team, athletic director, coaches, and assistant coaches be commended and honored for winning runner-up in the district tournament.

Section 2. That a copy of this resolution be transmitted to Owensboro Catholic High School, 1524 Parrish Avenue, Owensboro, Kentucky 42301.

**HR 213** was adopted by voice vote.

**HR 214**, by Representatives Johnson, Blandford and McElroy: A RESOLUTION honoring Kentucky Wesleyan College.

Representative Johnson moved the adoption of the following **HR 214**:

**HR 214**, A RESOLUTION honoring Kentucky Wesleyan College.

WHEREAS, Kentucky Wesleyan College is making its 22nd appearance in the NCAA Division II Tournament; and

WHEREAS, Kentucky Wesleyan College had its best regular season in its 79 years of basketball; and

WHEREAS, ON November 25, Kentucky Wesleyan College won its one thousandth game; and

WHEREAS, Kentucky Wesleyan College ranked number one in the nation for five weeks out of a possible eight weeks; and

WHEREAS, Kentucky Wesleyan College is ranked fourth in the NCAA Division II; and

WHEREAS, player Corey Crowder was named All American; and

WHEREAS, Head Coach and Athletics Director Wayne Chapman was named Region Coach of the Year and Conference Coach of the Year;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Kentucky Wesleyan College's President, Dr. Paul Hartman; its basketball team members; Head Coach Wayne Chapman; and Assistant Coach Ray Harper be commended and honored for their outstanding basketball season.

Section 2. That this honorable body wishes them success in the NCAA Division II.

Section 3. That a copy of this resolution be sent to Head Coach Wayne Chapman at Kentucky Wesleyan College, Owensboro, Kentucky.

**HR 214** was adopted by voice vote.

**HR 215**, by Representatives Johnson, Blandford and McElroy: A RESOLUTION congratulating and honoring Apollo High School.

Representative Johnson moved the adoption of the following **HR 215**:

**HR 215**, A RESOLUTION congratulating and honoring Apollo High School.

WHEREAS, Apollo High School girls' basketball team and boys' basketball team each won the 9th District Tournament; and

WHEREAS, both these teams went on to the Regionals; and

WHEREAS, the Apollo boys' basketball team triumphantly won the 3rd Regional Tournament and is going to the Sweet 16; and

WHEREAS, the Commonwealth is proud of the Apollo High School boys' basketball team; athletic director Willis McClure; boys' coach Will Wyman; and boys' assistant coaches Bill Oney, Bob Mantooth, and Scott Hawkins, for winning both the 9th District Tournament and the 3rd Regional Tournament; and

WHEREAS, the Commonwealth is also proud of the Apollo High School girls' basketball team; girls coach Willis McClure; and girls' assistant coaches, Ronnie Bunn, Steven Hahus, and Connie Harper for winning the 9th District Tournament;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Apollo High School's Principal Robert D. Combs, Assistant Principal Dale Stuart, Assistant Principal Robert D. Smith, its boys' basketball team, girls' basketball team, athletic director, coaches, and assistant coaches be commended and honored for winning these tournaments.

Section 2. That a copy of this resolution be transmitted to Apollo High School, 2280 Tamarack Road, Owensboro, Kentucky 42301.

**HR 215** was adopted by voice vote.

Representative Farrow moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Farrow moved the adoption of the following Legislative Citation No. 64. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates Phillip Short upon your victories at the Wint-O-lympics held in Lexington, Kentucky on March 4, 1990. Your desire to compete and always do your best paid off as you went for the gold. Victories in competitions held for tennis ball throw, scooterboard race, beanbag toss were rewarded with gold medals. A silver medal was presented for your second place finish in the frisbee throw. May the memories and merits of these accomplishments remain with you and guide you through future endeavors.

This prestigious body joins Representative Mark Farrow in saluting you for your victories. We extend to you our very best wishes for a bright and successful future.

Representative Farrow moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Farrow moved the adoption of the following Legislative Citation No. 67. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates the Trinity Assembly of God's Junior Bible Quiz Team.

This body proudly salutes the members of the Trinity Assembly of God's Junior Bible Quiz Team for your distinguished record of 34 - victories and 0 - defeats in competition. Your outstanding accomplishments have brought pride and honor to your church and families. Your achievements are a result of dedication, commitment and hard work. May the memories and merits of these accomplishments of these achievements remain with you and guide you in future endeavors.

This prestigious body joins Representative Mark Farrow in congratulating the members of the Trinity Assembly of God's Junior Bible Quiz Team. We extend to you our very best wishes for continued success.

Representative Farrow individually honored the following members of the Trinity Assembly of God's Junior Bibly Quiz Team:

Landon Holder, Lydia Holder, Caleb McDonald, Joshua McDonald, Tina McDonald, David Willis, Thomas Wright, and Officials Chris Brooks and Ashley Massie, and Coaches Debbie and Dennis McDonald.

Representative Burch moved that **HB 64** be taken from the Clerk's Desk and placed in the Orders of the Day. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 243** and **HB 667**. Agreed.

Representative Stumbo moved that **SJR 110** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SJR 110**. Agreed.

Representative Freibert moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that she be recorded as voting "yea" on **HB 670**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 277**, **HB 281**, **HB 282**, **HB 664**, **HB 283**, **HB 284** and **HB 828**. Agreed.

Representative Mullinix moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Mullinix moved that he be recorded as voting "yea" on **HB 540** and **HB 888**. Agreed.

Representative Ward moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ward moved that he be recorded as voting "yea" on **HB 283**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Casebier moved that his vote be changed from "yea" to "nay" on **HB 215**. Agreed.

Representative B. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that his vote be changed from "nay" to "yea" on **HB 215**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from "yea" to "nay" on **HB 670**. Agreed.

Representative Stumbo moved that when the House adjourns it do so until 2:00 p.m., Monday, March 19, 1990. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for Report of Committees and First Readings. Agreed.

### Recess

Representative Stumbo moved that the House recess until 4:00 p.m. to allow meetings of the Committee on Education, Committee on Appropriations and Revenue and the Committee on State Government. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

### Message from the Governor

Announcing veto of **HB 317**.

Pursuant to the authority vested in me by Section 88 of the Constitution of the Commonwealth of Kentucky, I, Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky, do hereby veto House Bill 317. This bill substantially liberalizes the use of dealer plates in the Commonwealth. Although some clarification in the existing law might be needed, this bill allows the plates to be used by dealers, their salesmen, and employees "without regard to purpose." It can be interpreted as permitting a customer of a dealer to use such a plate for up to nine months. I know that responsible dealers would not abuse this legislation, but the potential for abuse by others is too great to permit this bill to become law. At a time when we are asking our citizens to bear a greater burden in funding our schools, we cannot afford to create potential tax breaks of this magnitude for any particular group without sufficient justification.

### Senate Message

Announcing passage of **SB 391**, **SB 393**, **SB 403**, **HB 102** with Senate Amendment, **HB 375** with Senate Amendment, **HB 713** with Senate Amendment, **HB 100**, **HB 318**, **HB 323**, **HB 432**, **HB 465**, **HB 472**, **HB 522**, **HB 553**, **HB 599** and **HB 679**.

### Recess

Representative Stumbo moved that the House recess until such time as the Committee on Appropriations and Revenue have a report. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

### Report of Committees

The Committee on Judiciary reported **SCR 91** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**SCR 91**, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to study the issue of court costs.

WHEREAS, court costs have been growing larger and more diverse at each session of the General Assembly; and

WHEREAS, specialized forms of court costs such as "service fees" in driving under the influence cases have been created; and

WHEREAS, substantial off-budget revenue is being derived from such court costs; and

WHEREAS, the Constitution of Kentucky requires that the General Assembly appropriate funds to the various programs and entities of Government;

NOW, THEREFORE,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

Section 1. The Legislative Research Commission shall study the issue of court costs, including their origin, why they are imposed, the proceeds they generate, and where the proceeds are spent together with such recommendations and comments as may be appropriate. The study shall be accompanied by a bill draft, if appropriate.

Section 2. The Legislative Research Commission staff conducting the study shall report their findings and conclusions in periodic reports to the Interim Joint Committee on Judiciary and the Subcommittee on Justice, Corrections and Judiciary of the Interim Joint Committee on Appropriations and Revenue, and shall make a final written report to the Commission.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on State Government reported **HB 308**, **HB 741** with Committee Substitute attached thereto, **HB 863** with Committee Amendment attached thereto, **SB 269**, **HB 610** with Committee Substitute and Committee Amendment attached thereto, **HB 906** with Committee Substitute and Committee Amendment attached thereto, **SB 226** with Committee Amendments attached thereto, **HB 361** with Committee Substitute and Title Amendment attached thereto, **HB 387** with Committee Amendment attached thereto, **HB 836**, **HB 877**, **HB 896**, **HB 902**, **HR 3** and **HCR 144** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 308**, AN ACT relating to the Kentucky State Fair Board.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 247.130 is amended to read as follows:

(1) The state fair board may ***employ or contract with*** [~~appoint~~] a ***President*** [~~manager~~] who shall not be one of their number. ***The President shall be the chief executive officer for the board.*** The ***employment or contract*** [~~appointment~~] of a ***President*** [~~manager~~] shall be on the basis of training, ability and experience. A ***President*** [~~manager~~] shall hold his position during the pleasure of the board, but may be removed only by an affirmative vote of ***a majority of the*** [~~six (6)~~] members of the board ***and upon thirty (30) days written notice.*** A ***President*** [~~manager~~] shall be responsible for the administration of the policies set by the board, shall devote his entire time and attention to the performance of such duties and work as may be required of him by law or be assigned to him by the board[~~, and shall receive such salary, fixed on an annual basis, as the board may determine~~]. ***The board shall determine the term, conditions and compensation of its President, provided such term does not exceed four (4) years.***

(2) ***The President*** [~~A manager~~] may organize such administrative divisions as may be necessary and may designate chiefs of such divisions who, under his control and supervision, shall have the duties of direction of such divisions. The ***President*** [~~manager~~] shall organize a division for personnel management and staff development which shall manage all personnel matters, including staff development and training and programs for affirmative action. The director of this division shall be appointed, with the prior written approval of the Governor, by the President [~~of the board~~]. ***The President*** [~~A manager~~] may employ such other employes and agents as he deems necessary for the carrying out of the policies of the board and to conduct the affairs of the state fair, and may fix the duties and compensation of any employes or agents with the approval of the board.

(3) The board may employ or contract with such other persons, firms or corporations as the board may deem necessary or desirable to accomplish its duties and functions; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as the board may determine, including the responsibility of actual operation of any or all of the facilities under the control of the board.

(4) ***The President*** [~~A manager~~] and any persons employed under this section shall not be subject to the provisions of KRS Chapter 18A.

**HB 741,** AN ACT relating to reorganization of the Department of Agriculture.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly confirms the Commissioner's Executive Order 89-001.

The Committee Substitute to **HB 741** is as follows:

**HB 741,** AN ACT relating to the reorganization of the Department of Agriculture.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly confirms the Commissioner's Executive Order 89-001, establishing branches within the Department.

Section 2. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The ***Office of the*** Commissioner***, with the Egg Marketing Board, the Dog Law Advisory Committee, and the Kentucky Grain Insurance Corporation attached to it for administrative purposes.***[~~;~~]

(2) The ***state*** Board of Agriculture.[~~;~~]

(3) The ***Office of Market Services, which shall include the following:***

***(a) The*** Division of ***Market Development*** [~~markets~~];

***(b) The Division of Market Research; and***

***(c) The Division of Livestock and Agricultural Services.***

(4) ***The Office of Agri-Business Standards, which shall include the following:***

***(a)*** The Division of Weights and Measures;

***(b) The Grain and Hay Division;***

***(c) The Food Distribution Division; and***

***(d) The Division of Shows and Fairs.***

(5) The ***Office of State Veterinarian, which shall include:***

***(a) The Division of Animal Health and Administrative Records; and***

***(b) The Division of Animal Health Field Enforcement.*** [~~board of veterinary examiners;~~]

(6) ***The Office of Consumer Safety, which shall include the following:***

***(a)*** The Division of Pest and Noxious ***Weeds*** [~~weed control~~];

***(b)***[~~(7)~~ ~~The division of statistics;~~

~~(8)~~] The Division of Pesticides;

***(c) The State and Federal Meat Lab Division; and***

***(d) The Student Loan Division.***

***(7) The Division of Administrative Services, which shall assume all functions, funds, property and personnel of the Division of Statistics and the Milk Marketing and Antimonopoly Commission which are abolished.***

[~~(9) The division of shows and fairs; and~~]

***(8)***[~~(10)~~] The Kentucky Council on Agriculture.

Section 3. KRS 260.020 is amended to read as follows:

(1) The ***Office of Market Services*** [~~division of markets~~] in the Department of Agriculture shall be under the supervision of the commissioner, and shall consist of personnel determined and appointed by the commissioner.

(2) The ***Office of Market Services*** [~~division of markets~~] shall be headed by ***an office head*** [~~a director~~] appointed by the commissioner[~~, subject to the approval of the governor~~].

Section 4. KRS 260.030 is amended to read as follows:

(1) The ***Office of Market Services*** [~~division of markets~~] shall:

(a) Stress promotional market efforts and make available to farmers practical assistance in setting up farm cooperatives;

(b) Gather and disseminate information concerning supply, demand, prevailing prices and commercial movement, including common and cold storage of food products, and maintain market news service for the purpose of disseminating such information;

(c) Foster and encourage the inspection, grading, standardizing, labeling and branding of farm products; provide standards of excellence and brands for the use of producers and consumers in the marketing of Kentucky-grown products; and promote the standardization of packages and containers for such purposes;

(d) Make regulations for the grading, packing, hauling, storing and sale of farm products when the regulations are authorized by statutes, and enforce those regulations;

(e) Act as mediator or arbitrator, when invited, in any issue that may arise between producers and distributors of agricultural products;

(f) Encourage the establishment of public markets and direct dealing between producer and consumer;

(g) Encourage the consumption of Kentucky-grown products within and without the state;

(h) Encourage the development of a market for the commercial production of earthworms; and

(i) Negotiate and enter into cooperative agreements with the United States department of agriculture or any other appropriate federal agency for carrying this section into effect.

(2) The functions of the ***office*** [~~division~~] shall be supplementary to, and not in duplication of, the educational activities of the College of Agriculture of the University of Kentucky.

(3) In accomplishing its purposes the division shall not compete with business operated by private capital.

Section 5. KRS 363.560 is amended to read as follows:

The power and duty to administer and enforce KRS 363.510 to 363.850 is vested in the Department of Agriculture, and shall be exercised under the supervision of the ***Office of Agriculture Standards*** [~~Commissioner of Agriculture~~] through the Division of Weights and Measures. The division shall be headed by a director appointed by the Commissioner of Agriculture; and shall have such personnel as may be determined and appointed by the commissioner.

SECTION 6. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

***The Office of Agri-Business Standards within the Department of Agriculture shall be headed by an executive director appointed by the commissioner who shall be responsible for the administration of the department's agriculture and business regulatory programs.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

***The Office of Consumer Safety within the Department of Agriculture shall be headed by an executive director appointed by the commissioner who shall be responsible for the administration of the department's consumer safety programs.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

***The Grain and Hay Division is established within the Office of Agri-Business Standards of the Department of Agriculture. The division shall be headed by a director appointed by the commissioner who shall be responsible for administering the provisions of KRS Chapter 251 and the regulations and standards enacted pursuant thereto.***

Section 9. KRS 260.680 is amended to read as follows:

As used in KRS 260.675 to 260.760, unless otherwise required by context:

(1) [~~"Commission" means the milk marketing and anti-monopoly commission;~~

~~(2)~~] "Commissioner" means the Commissioner of Agriculture;

***(2) "Department" means the Department of Agriculture;***

(3) "Person" means any individual, corporation, partnership, association, cooperative, or other business unit;

(4) "Producer" means every person who produces milk or cream from cows and thereafter sells the same as milk, cream, or other dairy products;

(5) "Producer-handler" means any person who maintains his own herd, prepares for human consumption the milk or cream or other dairy products produced from the herd, and distributes and sells his own products, partially or exclusively, to customers or to others for sale to consumers;

(6) "Milk dealer" or "handler" means any person, including any distributor, processor, bulk milk handler, or operator of a store, who purchases or receives on consignment or otherwise, milk, cottage cheese or frozen dairy products, as hereinafter defined, within the state, for sale, shipment, storage, processing or manufacture, other than for consumption on the premises; a producer who delivers milk only to a processor, distributor or bulk milk handler shall not be deemed a milk dealer or handler; if a cooperative distributes or makes available on consignment or otherwise, milk, cottage cheese or frozen dairy products, within this state, to any person, it shall be deemed to be a milk dealer or handler as to that part of its business;

(7) "Consumer" means any person, other than a milk dealer or handler, who purchases milk, cottage cheese, or frozen dairy products for the consumption or use by himself or others;

(8) "Cooperative" means the term as defined in KRS Chapter 272, or an association organized under similar laws of another state;

(9) "Licensee" means a licensed milk dealer or handler;

(10) "Distributor" means any person, other than a bulk milk handler, engaged in the business of distributing milk, cottage cheese or frozen dairy products at wholesale or retail to consumers, stores or other distributors;

(11) "Processor" means any person engaged in the business of processing or packaging bulk milk and other materials into milk, cottage cheese or any frozen dairy products;

(12) "Cost to the processor or distributor" means the price paid for raw materials, plus the cost of doing business, as evidenced by the standards and methods of accounting regularly employed by such processor or distributor. The cost of doing business means all costs of doing business incurred in the conduct of the business and shall include without limitation the following items of expense: labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, power, supplies, maintenance of equipment, selling costs, transportation, delivery cost, credit losses, all overhead expense, and all types of licenses, taxes, insurance and advertising, provided, however, that for the purpose of computing the cost of the processor or the distributor with respect to the milk deliveries received from producers or their marketing agent, the cost shall be not less than:

(a) The amount computed at the applicable minimum federal order price as it applies to the processor or the distributor who is subject to the classification and pricing provisions of a federal marketing agreement or order issued pursuant to the agricultural marketing agreement act of 1937, as amended, or

(b) The amount computed at such minimum price or prices as may have been fixed by the official order of the ***department*** [~~commission~~] for the geographic area in which the plant of the processor or the distributor is located as it applies to the processor or the distributor who is not subject to the classification and pricing provisions of a federal marketing agreement or order issued pursuant to the agricultural marketing agreement act of 1937, as amended;

(13) "Bulk milk" means milk in bulk form, in cans, tank cars or tank trucks, that is furnished to a processor for the purpose of processing and manufacturing into milk, cottage cheese, or frozen dairy products, or any combination thereof;

(14) "Bulk milk handler" means any person engaged in the business of disposing of bulk milk to a processor, provided, that the term "bulk milk handler" shall not include a cooperative association with respect to the sale of the milk of its members;

(15) "Cost of a bulk milk handler" means the price paid dairy farmers for the milk, plus receiving plant

charge or a reasonable charge to cover all costs of operating his own receiving plant, plus transportation cost to the point of delivery to the purchaser;

(16) "Store" includes any mercantile establishment that sells, at retail, milk, cottage cheese or frozen dairy products;

(17) "Cost to the store" means the invoice price paid by the retailer plus the retailer's cost of doing business, as evidenced by the standards and methods of accounting regularly employed by such store, including, but not limited to, all costs incurred in the conduct of said store such as labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, power, supplies, maintenance of equipment, selling costs, advertising, transportation, delivery costs, credit losses, all overhead expenses, and all types of licenses, taxes, insurance and advertising;

(18) "Milk" means fluid milk, sweet cream, sour cream, skim milk, flavored milk, buttermilk, and condensed or concentrated whole or skim milk for use in fluid milk products;

(19) "Cottage cheese" means the soft uncured cheese prepared from the curd obtained by adding bacteria, with or without enzymatic action, to skim milk or reconstituted skim milk, prepared with or without mixture with cream or mixture of cream and milk or skim milk;

(20) "Frozen dairy products" means ice cream, ice cream mix, and any frozen substance, mixture or compound, regardless of the name under which it is represented, which is made in imitation or semblance of ice cream or sherbet, when prepared or manufactured for commercial purposes;

(21) "Books and records" means all pertinent books, ledgers, journals, records, papers, memoranda, correspondence, vouchers, bills, receipts, canceled checks, accounts, exhibits, photographs and other documents.

Section 10. KRS 260.690 is amended to read as follows:

KRS 260.675 to 260.760 shall be administered by the ***Division of Administrative Services of the Department of Agriculture*** [~~milk marketing and anti-monopoly commission~~].

Section 11. KRS 260.705 is amended to read as follows:

(1) No distributor, processor, bulk milk handler, store or producer-handler, either directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder, employee, partner, agent or representative thereof, shall for the purpose or with the effect of restraining, lessening or destroying competition or injuring one or more competitors or injuring one or more persons dealing in milk, cottage cheese, or frozen dairy products or to impair or prevent fair competition in the sale of milk, cottage cheese or frozen dairy products in this state, threaten or engage in any marketing practice established to be unreasonable by the ***department*** [~~commission~~], including, but not limited to, the marketing practices or methods of doing business described in this section:

(a) Advertise for sale any article or product at less than the cost thereof to such vendor; or give, offer to give or advertise the intent to give away any article or product, for the purpose of injuring competitors and destroying competition, or with the effect of otherwise injuring a competitor, or of destroying competition, or of creating a monopoly;

(b) Discriminate in price in the sale of any milk, cottage cheese, or frozen dairy products between different towns, cities, municipalities, counties, sections or communities, or portions thereof or locations therein, in this state, by advertising, offering to sell or selling milk, cottage cheese or frozen dairy products at a lower price in one town, city, municipality, county, section, or community, or portions thereof or locations therein, than in another, after making allowance for difference, if any, in the grade or quality, and in the actual cost of transportation to point of delivery;

(c) Give, or offer to give, or allow any secret rebate, unearned discount, free service or services, financial aid, free equipment or any other thing of value to any purchaser or consignee in connection with the sale or consignment of milk, cottage cheese or frozen dairy products;

(2) The provisions of subsection (1) shall not apply to advertisements or offers to sell, or sales made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade or business if notice is given to the public thereof;

(b) When the milk, cottage cheese or frozen dairy product is damaged or deteriorated in quality and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the legal prices of a competitor selling the same article in the same locality or trade area.

(3) No distributor, processor, bulk milk handler, or producer-handler, shall furnish, give, lend, sell or rent to any store any advertising material of any form except matter advertising the products of such distributor, processor, bulk milk handler, or producer-handler, and provided that if such advertising is furnished, given, loaned, sold or rented not more than one-third (1/3) of such space or cost of such advertising matter shall be used to identify the store.

Section 12. KRS 260.710 is amended to read as follows:

(1) The right of private enterprise to determine and establish the price or prices for sale of its products shall not be affected by KRS 260.675 to 260.760, and nothing contained herein shall be construed to authorize or permit the ***department*** [~~commission~~] to set, fix, or establish any price or prices, for sale of any milk, cottage cheese, or frozen dairy product, or any other product.

(2) Under rules prescribed by the ***department*** [~~commission~~], each milk dealer or handler, including producer-handlers, shall file with the ***department*** [~~commission~~], within such time and in such form as the ***department*** [~~commission~~] designates, schedules showing all prices established by such dealer or handler for milk, cottage cheese, or frozen dairy products. The dealer or handler shall keep copies of its schedules open to public inspection under such rules as the ***department*** [~~commission~~] prescribes.

(3) Price schedules on any class of milk, cottage cheese or frozen dairy products can be superseded, changed or withdrawn only on forms prescribed and furnished by the ***department*** [~~commission~~] and by filing a copy of the new or modified price schedule with the ***department*** [~~commission~~] at such time and in the manner required by such rules as the ***department*** [~~commission~~] prescribes.

Section 13. KRS 260.715 is amended to read as follows:

(1) The ***department*** [~~commission~~] is authorized and empowered:

(a) To call together milk dealers or handlers and producer-handlers for the purpose of inquiry into marketing practices prevailing from time to time in this state, and if need be, to conduct investigations and/or hearings in connection with such practices for the purpose of making findings relative to any marketing practice found to exist within this state involving the sale or distribution of milk, cottage cheese, or frozen dairy products covered by KRS 260.675 to 260.760, and thereafter to promulgate reasonable rules or regulations for the elimination of any such practice found to be contrary to the provisions of KRS 260.675 to 260.760; and

(b) To establish as a public record the minimum prices applicable to the milk deliveries of producers to a processor or a distributor. Such prices shall be used solely for the purpose of computing the cost of a processor or a distributor pursuant to KRS 260.680 (12)(b). These minimum prices shall, in the discretion of the ***department*** [~~commission~~], be established for a processor or a distributor located or distributing milk or milk products in marketing areas as defined by counties or other appropriate geographical subdivision.

(2) Upon receipt of a written complaint or upon the ***department's*** [~~commission's~~] own motion, the ***department*** [~~commission~~] may initiate proceedings for the purpose of hearing and investigating evidence of the failure or refusal of any person to comply with the provisions of KRS 260.675 to 260.760 or the rules, regulations and orders of the ***department*** [~~commission~~] issued thereunder after first giving five (5) days' notice to the alleged violator as to the date and time fixed for the hearing and the nature of the charge or charges. Each witness required to attend the hearing shall be entitled to receive mileage customarily paid to the witnesses in the courts of the Commonwealth. The ***department*** [~~commission~~] shall not be bound by technical rules of evidence, except as may be required by the applicable administrative procedure laws of the Commonwealth.

(3) The ***department*** [~~commission~~] shall have the power during the course of an investigation or hearing to issue subpoenas requiring the attendance and testimony of, or the production of books and records by, any person believed to have information of importance to the hearing or investigation, or possessing any books or records of importance to the hearing or investigation.

(4) Any person who refuses to obey a subpoena issued by the ***department*** [~~commission~~], or refuses to be sworn or affirmed, or testify, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court. For this purpose, an application may be made by the ***department*** [~~commission~~] to the court of the circuit within whose territorial jurisdiction the hearing or investigation is being conducted.

(5) Every rule, regulation or order of the ***department*** [~~commission~~] shall be posted for public inspection in the main office of the ***department*** [~~commission~~] and copies of such a rule, regulation or order shall be made available and mailed to all licensees and producer groups and organizations affected thereby. Such rule, regulation or order of the ***department*** [~~commission~~], when duly posted or when properly served, shall have the force and effect of law.

Section 14. KRS 260.720 is amended to read as follows:

All acts, proceedings, rules, regulations, orders, papers, findings, minutes and records of the ***department*** [~~commission~~] and all reports and documents filed with the ***department*** [~~commission~~] may be proved in any court of the Commonwealth by copy thereof, certified to by the ***Commissioner of Agriculture*** [~~chairman or secretary of the commission~~].

Section 15. KRS 260.725 is amended to read as follows:

(1) The ***department*** [~~commission~~] may confer with legally constituted authorities of other states and of the United States with respect to uniform milk marketing practices. The ***department*** [~~commission~~] may join with authorities of other states and with authorities of the United States to conduct joint investigations, to exchange information, hold joint hearings and issue joint, complementary or concurrent orders, and to enter into compacts upon milk marketing practices.

(2) The ***department*** [~~commission~~] may grant exemptions from any provisions of KRS 260.675 to 260.760 with respect to distribution or sale of products made to the United States or the Commonwealth or any agency, department, division or institution of either, or to any public institution supported in whole or in part by public funds.

Section 16. KRS 260.730 is amended to read as follows:

(1) Every milk dealer or handler who owns or operates facilities at which milk, cottage cheese and frozen dairy products are received, or processed for distribution or sale within the Commonwealth, or who sells milk, cottage cheese or frozen dairy products within the Commonwealth, shall make application for a license as a milk dealer or handler with the ***department*** [~~commission~~] within thirty (30) days after June 16, 1960, or prior to engaging in business, and annually thereafter, on or before January 1, upon a form to be prescribed by the ***department*** [~~commission~~]. Such application shall be accompanied by a license fee of one dollar ($1). Renewal fee shall be one dollar ($1). Any licensee failing to renew his license before the expiration date thereof shall be penalized two dollars ($2) in addition to his license fee.

(2) The license required by KRS 260.675 to 260.760 shall be in addition to any other license or licenses which are now or may hereafter be required by law.

(3) Producer-handlers who distribute or sell a total quantity of milk, cottage cheese, and frozen dairy products, not in excess of an equivalent of two thousand (2,000) pounds of whole milk in any one (1) day, shall be exempted from the license requirement.

(4) Licenses may not be assigned or transferred.

Section 17. KRS 260.735 is amended to read as follows:

(1) The ***department*** [~~commission~~] may decline to grant a license to an applicant or may suspend or revoke a license for the following causes:

(a) Failure to account and make payment for any milk purchased or received from a producer, milk dealer or cooperative that is marketing the milk of its member-producers. Provided, however, that if it be shown that there was reasonable cause for any such failure to account and make payment, and that such accounting and payment can and will be made promptly, the ***department*** [~~commission~~] shall not suspend or revoke a license solely for such conduct, until a reasonable opportunity has been afforded the licensee to make accounting and payment;

(b) Doing any act injurious to public health or welfare or doing any act injurious to trade or commerce by disruption of the orderly marketing of milk, cottage cheese, or frozen dairy products to such an extent as to interfere with the ample supply thereof for the inhabitants of the Commonwealth. Such act shall include any course of conduct on the part of the milk dealer or handler in violation of the terms of KRS 260.675 to 260.760 or any valid rules, regulations and orders of the ***department*** [~~commission~~];

(c) Making a general assignment for the benefit of creditors, or being adjudged a bankrupt;

(d) Participating in practices in selling or otherwise disposing of milk at prices which create a condition of emergency, by disrupting and undermining orderly marketing practices or by imperiling the ability of milk dealers or handlers to make full and prompt payment for such milk;

(e) Failure to keep books and records or to furnish accurately the reports, statements or other information required by the ***department*** [~~commission~~];

(f) Having made any statement upon which a license was issued, which is found to have been false or misleading in any particular;

(g) Violation of any of the provisions of KRS 260.675 to 260.760, or any of the rules, regulations or orders of the ***department*** [~~commission~~];

(h) Failing to pay any judgment rendered as a result of any violation of the provisions of KRS 260.675 to 260.760, or the rules and regulations promulgated by the ***department*** [~~commission~~];

(i) Refusal without reasonable cause to receive milk from a producer because it was not transported to the milk dealer or handler by a hauler of the dealer's or handler's choosing, providing that such producer or hauler has adequate facilities and equipment for hauling, and is delivering or is ready, able and willing to deliver, milk to the plant of such dealer or handler in proper condition and at the time necessary to coincide with the current schedule of plant operations of the dealer or handler;

(j) Any conduct constituting a misrepresentation or fraud on the public.

(2) The burden of proving reasonable cause under any provision of this section shall be upon the milk dealer or handler. The issuance or renewal by the ***department*** [~~commission~~] of a license hereunder shall not preclude the ***department*** [~~commission~~] from suspending or revoking such license for a violation committed by the licensee prior to the current license period.

Section 18. KRS 260.740 is amended to read as follows:

Before refusing to grant or to reissue, or before suspending or revoking a license, the ***department*** [~~commission~~] shall give such licensee an opportunity to be heard and shall give notice to such licensee by certified mail, return receipt requested, at least five (5) days prior to the hearing containing a statement of the matters complained of. After such hearing and after reaching a decision, the ***department*** [~~commission~~] shall notify the licensee by certified mail within ten (10) days.

Section 19. KRS 260.745 is amended to read as follows:

(1) A party affected by an order of the ***department*** [~~commission~~] may file a petition for review in the Circuit Court of the county in which he resides within twenty (20) days after the service of the final decision of the ***department*** [~~commission~~].

(2) Copies of the petition shall be served upon the ***department*** [~~commission~~] and all other parties of record. The court, in its discretion, may permit other interested parties to intervene. The filing of the petition shall not stay enforcement of the ***department's*** [~~commission's~~] decision; but the ***department*** [~~commission~~] may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(3) Within twenty (20) days after service of the petition, or within such further time as the court may allow, the ***department*** [~~commission~~] shall transmit to the reviewing court the original or a certified copy of the entire record under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(4) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the ***department*** [~~commission~~], not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(5) The court may affirm the decision of the ***department*** [~~commission~~] or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a) In violation of constitutional provisions;

(b) In excess of the statutory authority or jurisdiction of the agency;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Unsupported by competent, material, and substantial evidence in view of the entire record as submitted;

(f) Arbitrary or capricious.

Section 20. KRS 260.750 is amended to read as follows:

(1) In addition to the annual license fee there is imposed an assessment on all milk, except bulk milk,

and on cottage cheese and frozen dairy products sold in the Commonwealth or packaged or processed in the Commonwealth for distribution therein. The assessment shall be a fee of not more than sixteen (16) mills per hundred weight on all milk used or processed in packaged or processed milk and cottage cheese; a fee of not more than ten (10) mills on each gallon of frozen dairy products, including ice cream mix; and a fee of not more than five (5) mills per dozen frozen novelties. The ***department*** [~~commission~~] may fix such assessment fees at lesser amounts and adjust such fees from time to time.

(2) The assessment fees shall be paid to the ***department*** [~~commission~~] by:

(a) Each distributor with respect to the sale or disposition of milk, cottage cheese and frozen dairy products to consumers, or stores, or other distributors, within the Commonwealth; and

(b) Each store with respect to its purchases of milk, cottage cheese or frozen dairy products from any source other than from distributors who are subject to the reporting and payment provisions of this section.

(3) (a) The assessment fees shall be payable to the ***department*** [~~commission~~] on or before the last day of the month following the month during which such products were sold or disposed of. Such returns shall be on forms to be prescribed and furnished by the ***department*** [~~commission~~], and shall contain such information as the ***department*** [~~commission~~] may require. The ***department*** [~~commission~~] may in addition require each milk dealer or handler, including a producer-handler, to file a return with the ***department*** [~~commission~~] for any month, giving such information as the ***department*** [~~commission~~] may require.

(b) All information furnished to or acquired by the ***department*** [~~commission~~] pursuant to KRS 260.675 to 260.760 shall be kept confidential by all members and employees of the ***department*** [~~commission~~] and only such information as the ***department*** [~~commission~~] deems relevant shall be disclosed by it, and then only in an administrative or court proceeding.

(4) The assessment fees provided by KRS 260.675 to 260.760 shall not apply to milk, cottage cheese and frozen dairy products used or consumed on the farm where produced or manufactured, or distributed or sold by producer-handlers and stores in a total quantity not to exceed an equivalent of two thousand (2,000) pounds of whole fluid milk during a day.

Section 21. KRS 260.755 is amended to read as follows:

All fees and other moneys received by the ***department*** [~~commission~~] pursuant to the provisions of KRS 260.675 to 260.760 shall be paid to the ***department*** [~~commission~~], and shall be deposited in the State Treasury to the credit of a revolving fund for use of the ***department*** [~~commission~~] in the administration of KRS 260.675 to 260.760.

Section 22. KRS 260.760 is amended to read as follows:

Whenever in the judgment of the ***department*** [~~commission~~] any person who holds a license or is subject to licensing under KRS 260.675 to 260.760 has engaged in or is about to engage in any acts or practices that constitute a violation of KRS 260.675 to 260.760, or of any rules promulgated by the ***department*** [~~commission~~], the ***department*** [~~commission~~] may make application to the court for an order enjoining such act or acts or practices.

Section 23. KRS 260.991 is amended to read as follows:

Any person who holds a license or is subject to licensing under KRS 260.675 to 260.760 who violates any provision of KRS 260.675 to 260.760 or any rules, regulation or order of the ***department*** [~~commission~~] shall be fined not more than five hundred dollars ($500) or imprisoned for not less than one (1) day nor more than thirty (30) days, or both, for each offense. Each day's violation is to constitute a separate offense.

Section 24. The following KRS sections are repealed:

260.685 Milk marketing and anti-monopoly commission.

260.695 Only the commission is liable for its obligations.

260.700 Commission personnel.

Section 25. The General Assembly confirms the Commissioner's Executive Order 88-001 to the extent that it is not otherwise confirmed by this Act.

Section 26. KRS 446.250 through 446.320 to the contrary notwithstanding:

(1) In the event that Executive Order 89-001 is confirmed by the General Assembly, the Reviser of Statutes is directed to remove the reference to the Student Loan Division contained in Section 2(6) of this Act and to make appropriate renumbering modifications.

(2) In the event that an Act confirming Executive Order 88-431 is enacted into law, the Reviser of Statutes is directed to remove the reference to the Egg Marketing Board, and the Dog Law Advisory Committee contained in Section 2(1) of this Act.

**HB 863**, AN ACT relating to state employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 18A.146 is amended to read as follows:

(1) [~~As used in this section, "state employee" means a person regularly appointed to a position in the state service, whether classified or unclassified, for which he is compensated on a full-time or part-time basis.~~

~~(2)~~] Subject to the provisions of KRS 18A.095, any [~~state~~] employee who is convicted of a felony may be subject to any disciplinary action deemed appropriate, including dismissal from the state service. ***Conviction of an offense for violation of KRS Chapter 218A which has as a possible sentence confinement in the penitentiary shall result in the dismissal of the employee. Conviction of any other offense for violation of KRS Chapter 218A shall be cause to order the offending employee to participate in a treatment program approved by the Cabinet for Human Resources. Failure to participate in or successfully complete the program shall result in the dismissal of the employee. Conviction of three (3) felony offenses in a five (5) year period shall result in dismissal of the employee. This provision shall not apply to multiple felony convictions at the same trial.***

The Committee Amendment No. 1 to **HB 863** is as follows:

Amend printed copy of **HB 863** on page 1, line 18, by deleting the word "***felony***" and inserting in lieu thereof the words "***controlled substance***".

SB 269, AN ACT relating to real estate improvement contracts.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

***(1) If, in any contract in the amount of five hundred thousand dollars ($500,000) or more involving the improvement of real estate, a certain amount or percentage of the contract is held back by the owner, that retained amount shall be deposited in a separate escrow account with a bank or trust company authorized to do business in the Commonwealth of Kentucky.***

***(2) As of the time of the deposit of the retained funds, they shall become the sole and separate property of the contractor to whom they are owed.***

***(3) The escrow agent shall promptly invest all escrowed principal in obligations selected by the escrow agent in its discretion.***

***(4) Upon satisfactory completion of the contract, to be evidenced by a written release by the owner, all funds accumulated in the escrow account, together with any interest thereon, shall be paid immediately to the contractor to whom it is owed.***

***(5) The escrow agent shall be compensated for its services in an amount agreed to by the owner, contractor and escrow agent. The compensation shall be a commercially reasonable fee commensurate with fees being charged for handling of escrow accounts of similar size and duration. The compensation shall be paid from the escrow account.***

***(6) In the event the owner fails or refuses to execute the release provided for in subsection (4) of this section, then the contractor shall have a cause of action against the owner in a court of proper jurisdiction.***

***(7) This section shall not apply to contracts with the Commonwealth or school boards.***

**HB 610**, AN ACT relating to small business development and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 45A.030 is amended to read as follows:

The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.

(1) "Business" shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(2) ***"Certification" or "certified" shall mean a determination made by the Division of Business Certification of the Economic Development Cabinet, pursuant to KRS Chapter 152, that a small business is a small business enterprise, a minority business enterprise, a woman business enterprise or a handicapped business enterprise for whatever purpose.***

***(3) "Cabinet" shall mean the Finance and Administration Cabinet.***

***(4) "Challenge" shall mean a process, established by the Division of Business Certification of the Cabinet for Economic Development, and issued as administrative regulations pursuant to KRS Chapter 13A, in which a third party questions the certification of a small business.***

***(5)***[~~(2)~~] "Change order" shall mean a written order signed by the purchasing officer, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor.

***(6)***[~~(3)~~] "Chief purchasing officer" shall mean the secretary of the finance and administration cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177 and 180.

***(7)***[~~(4)~~] "Construction" shall mean the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property.

***(8)***[~~(5)~~] "Contract" shall mean all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It shall include awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It also includes supplemental agreements with respect to any of the foregoing.

***(9)***[~~(6)~~] "Contract modification" shall mean any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It shall include bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

***(10)***[~~(7)~~] "Contractor" shall mean any person having ***or seeking*** a ***state procurement*** contract ***from*** [~~with~~] a governmental body.

***(11) "Controlled" or "control" shall mean the exclusive or ultimate and sole control of the small business, including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular small business and control shall not include simple majority or absentee ownership.***

***(12)***[~~(8)~~] "Data" shall mean recorded information, regardless of form or characteristic.

***(13)***[~~(9)~~] "Designee" shall mean a duly authorized representative of a person holding a superior position.

***(14)***[~~(10)~~] "Employee" shall mean an individual drawing a salary from a governmental body, whether elected or not, and any non-salaried individual performing personal services for any governmental body.

***(15) "Good faith" shall mean honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.***

***(16)***[~~(11)~~] "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive, [~~or~~] legislative ***or judicial*** branch of the state government.

***(17) "Handicapped business enterprise," or*** **HBE**, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more resident citizens of the United States who are permanently handicapped persons, as determined by a notarized statement from a state or federal agency authorized by a state or federal law to determine that a person is permanently handicapped.

***(18)***[~~(12)~~] "May" shall mean permissive.

***(19) "Minority business enterprise," or MBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more ethnic minority persons, of either sex, who are resident citizens of the United States and who are certified as a member of one of the following ethnic minority groups:***

***(a) Black Americans: all persons easily identified as having origins in any of the Black racial groups of Africa;***

***(b) Hispanic Americans: all persons easily identified as persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin;***

***(c) Native Americans (American Indians, Alaskan Natives, Eskimos, Aleuts or Native Hawaiians): all persons easily identified as having origins in any of the original peoples of North America or Hawaii, or, in the case of American Indians, who maintain cultural identification through tribal affiliation recognized by the Bureau of Indian Affairs, United States Department of the Interior;***

***(d) Asian and Pacific Islander Americans: all persons easily identifiable as having origins in any of the original peoples of the Middle East, the Indian Subcontinent, Southeast Asia, East Asia, and Islands in the Pacific Ocean;***

***(e) It is the duty of the applicant to prove by a preponderance of the evidence that he is within the protected class.***

***(20)***[~~(13)~~] "Negotiation" shall mean contracting by either the method set forth in KRS 45A.085, 45A.090 or 45A.095.

***(21) "Ombudsman" shall mean an office or individual within the Cabinet whose responsibility includes providing necessary information and assistance, within reason, to small business or any other business in dealing with the requirements of KRS Chapters 45 and 45A and other relevant statutes and administrative regulations.***

***(22) "Permissive goal" shall mean the achievement of an end toward which a good faith effort is directed.***

***(23)***[~~(14)~~] "Person" shall mean any business, individual, organization or group of individuals.

***(24)***[~~(15)~~] "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

***(25)***[~~(16)~~] "Purchase request" or "purchase requisition" shall mean that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025.

***(26)***[~~(17)~~] "Purchasing agency" shall mean any governmental body which is authorized by this code or its implementing regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer.

***(27)***[~~(18)~~] "Purchasing officer" shall mean any person authorized by a governmental body in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term shall also include an authorized representative acting within the limits of authority.

***(28) "Secretary" shall mean the Secretary of the Finance and Administration Cabinet.***

***(29)***[~~(19)~~] "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services.

***(30)***[~~(20)~~] "Shall" shall mean imperative.

***(31) "Sham or front company" shall mean any business which falsely represents itself as a small business for the purpose of obtaining funds, contracts, subcontracts, services or other benefits pursuant to this Act.***

***(32) "Small business" shall mean a certified business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity is not affiliated or subsidiary of a business dominant in its field of operation, and has forty-nine (49) or fewer full-time employees or an equivalent number of part-time or seasonal employees and no more than the equivalent of two million dollars ($2,000,000) in annual gross revenues in each of the two preceding fiscal years and further qualifies as a*** SBE, MBE, WBE or HBE.

***(33) "Small business enterprise," or*** SBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more nonminority males who are resident citizens of the United States.

***(34) "Small business participation" or "participation" shall mean the inclusion of a small business through one of the following state contract opportunities, including but not limited to:***

***(a) Small business set-aside competitive bidding, pursuant to Section 3 of this Act; or***

***(b) Competitive sealed bidding, pursuant to KRS 45A.080; or***

***(c) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090; or***

***(d) Noncompetitive negotiation, pursuant to KRS 45A.095; or***

***(e) Small purchase procedures, pursuant to KRS 45A.100; or***

***(f) Professional, technical, scientific, or artistic services which are required to be reviewed and approved in accordance with KRS 45.710 to 45.720; or***

***(g) Transportation Cabinet contracts, of which only state funds are expended, pursuant to KRS Chapters 176 and 177.***

***(35) "Small business set-aside competitive bidding" shall mean a contract or purchase request for which bids are to be invited and accepted only from a small business.***

***(36) "Subcontractor" or "supplier" shall mean a business or small business that maintains or wants to enter into a contractual relationship with a contractor for the purpose of the contractor fulfilling his contract obligation to the Commonwealth.***

***(37)***[~~(21)~~] "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

***(38)***[~~(22)~~] "Supplies" shall mean all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land.

***(39)***[~~(23)~~] "Using agency" shall mean any governmental body of the state which utilizes any supplies, services, or construction purchased under this code.

***(40) "Vendor catalog" shall mean a compilation of vendor lists, including but not limited to those which are maintained by the Finance and Administration Cabinet and the Transportation Cabinet. The vendor catalog shall include but not be limited to the following:***

***(a) Basic information illustrating the vendor's business name, address, phone number, and the type of commodities or services provided by the vendor;***

***(b) A listing of all vendors who have received and completed small purchase requests, pursuant to KRS 45A.100; and***

***(c) A categorization of business types according to the type of commodity or service.***

***(41) "Waiver" shall mean a written approval provided by the Secretary of Finance, granting an exemption to a governmental body unable to include small business participation in any particular procurement contract, if the Secretary determines that the waiver is justified.***

***(42) "Waiver request" shall mean a written explanation submitted to the Secretary, by a governmental body with purchasing authority, explaining why it is unable to meet the permissive goal of thirty-six percent (36%) for small business participation on any particular procurement contract.***

***(43) "Woman business enterprise," or WBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more nonminority females who are resident citizens of the United States.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***(1) It shall be the policy of the Finance and Administration Cabinet that small business shall have the maximum opportunity to participate in the procurement of state contracts.***

***(2) The Finance and Administration Cabinet shall encourage every governmental body of this Commonwealth with purchasing authority to make a good faith effort to achieve a small business participation permissive goal of thirty-six percent (36%) on every state procurement contract for each fiscal year after the effective date of this Act, until the expiration of this Act upon adjournment sine die of the 2000 General Assembly. The permissive goal of thirty-six percent (36%) for small business participation shall include the following:***

***(a) A twenty percent (20%) permissive goal for small business enterprise participation;***

***(b) A ten percent (10%) permissive goal for minority business enterprise participation;***

***(c) A five percent (5%) permissive goal for woman business enterprise participation; and***

***(d) A one percent (1%) permissive goal for handicapped business enterprise participation.***

***(3) A small business shall be certified as such prior to receiving a procurement contract pursuant to this Act and shall be certified every two years thereafter.***

***(4) A small business shall not be eligible to be certified in more than one enterprise category.***

***(5) Any person who falsely represents himself as a small business, as defined in this Act, shall be guilty of a class D felony.***

***(6) Any governmental body that is unable to achieve the permissive goal of thirty-six percent (36%) for small business participation on any procurement contract shall submit a waiver request to the Secretary of the Finance and Administration Cabinet and receive a waiver in response, prior to letting the contract for which the waiver request was submitted.***

***(7) Upon receiving a waiver request, the Secretary of Finance will respond in a timely manner with either a waiver approval or denial.***

***(8) Beginning July 1, 1990, and continuing for a period of four (4) fiscal years thereafter, each governmental body with purchasing authority shall maintain records and make quarterly reports to the Cabinet concerning their success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The quarterly reports shall be delivered to the Cabinet within thirty (30) calendar days after the end of each quarter of each fiscal year. Beginning July 1, 1994, each governmental body with purchasing authority shall maintain records and make annual reports to the Cabinet concerning their success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The annual reports shall be delivered to the Cabinet within thirty (30) calendar days after the end of each fiscal year. The reports required herein shall be in a form approved by the Cabinet, to be prescribed by administrative regulation pursuant to KRS Chapter 13A.***

***(9) Beginning July 1, 1990, and continuing for a period of four (4) fiscal years thereafter, the Cabinet shall maintain records and make quarterly reports to the Legislative Research Commission, for review by the appropriate committee of jurisdiction, concerning each governmental body's success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The quarterly reports shall be delivered to the Legislative Research Commission within sixty (60) calendar days after the end of each quarter of each fiscal year. Beginning July 1, 1994, the Cabinet shall maintain records and make annual reports to the Legislative Research Commission, for review by the appropriate committee of jurisdiction, concerning each governmental body's success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The annual reports shall be delivered to the Legislative Research Commission within sixty (60) calendar days after the end of each fiscal year.***

***(10) The Cabinet shall promulgate the necessary administrative regulations to implement the provisions of this Act, pursuant to KRS Chapter 13A, within ninety (90) days after the effective date of this Act.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may designate any contract for goods, equipment, construction or services as a small business set-aside for the purpose of achieving the small business participation permissive goal of thirty-six percent (36%). A small business set-aside designation shall be made prior to the advertisement for bids, and the advertisement shall indicate this invitation as a small business set-aside.*

*(2) If the cabinet chooses to designate a small business set-aside, it shall send invitation for bids to every small business on the vendor list which is known to provide the particular type of goods, equipment, construction or services required by the specifications in the invitations for bids or requests for proposals.*

*(3) Bids that are received from bidders who are not certified as a small business shall be rejected.*

*(4) The cabinet shall award the small business set-aside contract to the lowest and best responsible small business bidder meeting specifications.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created an agency of state government to be known as the Office of Procurement Assistance, which shall constitute an office of the Finance and Administration Cabinet, and the office shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet. The executive director shall serve for a term of four (4) years and he may be reappointed for similar terms, and may be removed by the secretary of the Finance and Administration Cabinet, only for cause, after being given a copy of the charges against him and an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten (10) days notice. If the executive director is removed, the secretary of the Finance and Administration Cabinet shall file in the office of the Secretary of State a complete statement of all charges, and his findings therein, and a complete record of the proceedings. The executive director being so removed may bring action in the proper court to determine whether or not he was legally removed in accordance with this section.*

*(2) The executive director shall serve as an ombudsman for businesses, especially small businesses, that want to obtain state procurement contracts. The duties of the executive director shall include but not be limited to the following:*

*(a) Providing a guide for businesses, especially small businesses, on the purchasing procedures and practices of governmental bodies, and taking steps to ensure the inclusion of businesses, especially small businesses, on the vendor lists of the cabinet;*

*(b) Informing businesses, especially small businesses, concerning state procurement opportunities;*

*(c) Assisting businesses, especially small businesses, in complying with the procedures for bidding on state contracts;*

*(d) Working with state and federal agencies and with private organizations in disseminating information on state procurement procedures and the opportunities for businesses, especially small businesses, to participate in state contracts;*

*(e) Assisting state agencies with the development of a comprehensive vendor catalog capable of providing information on sources of materials, supplies, equipment, or services to the state; and*

*(f) Making recommendations to governmental bodies for simplification of contract terms and conditions to increase state contracting opportunities for businesses, especially small businesses.*

*(3) The executive director shall have general supervision and direction over all the duties, functions and activities of the office and shall be responsible for carrying out the programs and policies of the office. The executive director shall have the authority to hire the necessary staff to perform the required duties, pursuant to the approval of the secretary of the Finance and Administration Cabinet.*

*(4) The executive director shall have access to all records generated by each governmental body, pursuant to KRS Chapters 45 and 45A.*

*(5) The executive director, upon approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations within ninety (90) days after the effective date of this Act, pursuant to KRS Chapter 13A, to implement the provisions of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

*The Cabinet shall develop, maintain and distribute a vendor catalog to each governmental body, with purchasing authority, of this state within one hundred twenty (120) days after the effective date of this Act, and shall revise the vendor catalog each fiscal year and distribute the revisions to each governmental body, with purchasing authority, within sixty (60) days after the end of each fiscal year.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***(1) The cabinet shall develop and administer an electronic information delivery system to provide a wide range of government information to the public, to assist citizens in locating government services, and to disseminate information traditionally distributed in paper form to state offices. As a primary objective, this system shall disseminate information which improves the opportunity for small businesses to participate in state purchasing activity. Regarding purchasing information, the system shall, include but not be limited to information concerning bid opportunities, bid advertisements, information on procedures for doing business with the state and other information which the cabinet determines is essential to support the intent of this Act. All departments, divisions, agencies and officers of the Commonwealth shall furnish the cabinet with necessary assistance, information and records as it may require.***

***(2) The information delivery system shall be computer-based and accessible through the statewide teleprocessing network from at least one public location in each county. The cabinet shall make a determination concerning the location of public access terminals. Priority shall be given to those locations which offer the best access during normal business hours.***

***(3) The cabinet may also offer on-line access to the system through the use of a modem, provided this use does not compromise the availability of the system for the purpose contemplated in subsection (2) of this section. If on-line access to the system is permitted through the use of a modem, the cabinet shall prescribe a system of user fees to recover developmental and operational costs. The cabinet shall charge only for actual costs incurred.***

***(4) The cabinet shall prescribe a system of user fees to recover the developmental and operational costs in establishing and operating the system for the purpose contemplated in subsection (2) of this section. The cabinet shall charge only for actual costs incurred.***

***(5) The cabinet shall also establish reasonable costs to be collected for the production of a paper copy from the system. The cabinet shall charge only for actual costs incurred.***

Section 7. KRS 45A.075 is amended to read as follows:

Except as otherwise authorized by law, all state contracts shall be awarded by:

(1) Competitive sealed bidding, pursuant to KRS 45A.080; or

(2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090; or

(3) Noncompetitive negotiation, pursuant to KRS 45A.095 this code; or

(4) Small purchase procedures, pursuant to KRS 45A.100***; or***

***(5) Small business set-aside competitive bidding, pursuant to Section 3 of this Act.***

Section 8. KRS 45A.100 is amended to read as follows:

(1) ***Small purchase*** [~~Procurements, not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction, five thousand dollars ($5,000) for equipment replacement parts purchased by the transportation cabinet, and one thousand dollars ($1,000) for all other purchases by state governmental bodies other than institutions of higher education, the department of parks, the transportation cabinet and the finance and administration cabinet, may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet.~~] procurements ***shall*** not [~~to~~] exceed an aggregate amount of ten thousand dollars ($10,000) for construction ***services for each governmental body,*** and [~~purchases of~~] five thousand dollars ($5,000) ***for all other categories of goods and services purchased*** by state institutions of higher education, the Department of Parks, the Transportation Cabinet and the Finance and Administration Cabinet***, and one thousand dollars ($1,000) for all other purchases, except construction services, by all other governmental bodies. Contracts exceeding the amount provided for in this section shall be awarded by competitive sealed bidding, pursuant to KRS 45A.080*** [~~may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet~~].

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

***(3) Each using agency shall obtain three (3) or more written price quotations from qualified sources of supply for all categories of small purchases above five hundred dollars ($500). At least one (1) of the required price quotations shall be obtained from a small business as defined in Section 1 of this Act.***

Section 9. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet ***shall*** [~~may~~] provide for prequalification of ***contractors, subcontractors, and*** suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified ***contractors, subcontractors, and*** suppliers. ***Every contractor, subcontractor, or supplier shall be prequalified before they are eligible to receive a state procurement contract*** [~~Prequalification shall not foreclose a written determination:~~

~~(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or~~

~~(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible~~].

Section 10. KRS 45A.170 is amended to read as follows:

(1) The Finance and Administration Cabinet shall have responsibility for [~~issuing and~~] maintaining [~~all~~] standard specifications for supplies, services, and construction required by the Commonwealth [~~Among its duties, it shall, to the greatest extent practicable:~~

~~(a) Prepare and issue standard specifications for supplies, services, and construction commonly required by the Commonwealth;~~

~~(b) Revise all standard specifications to conform to all technical and scientific advances pertaining to the supplies, services, and construction described in those specifications and to reflect changes in the Commonwealth's requirements; and~~

~~(c) Establish guidelines for drafting specifications~~].

(2) ***The Finance and Administration Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, including but not limited to the following:***

***(a) Guidelines for drafting specifications;***

***(b) Standard specifications for supplies, services and construction; and***

***(c) Where applicable, in lieu of, or in addition to, the Commonwealth's standard specifications, inclusion by reference of federal specifications of the General Services Administration, the armed services, or any other federal agency's specifications, or specifications drawn by a nationally recognized organization such as the American Society for Testing and Materials or the American National Standards Institute*** [~~All specifications shall be drafted so as to maximize, to the extent practicable, competition in fulfillment of the Commonwealth's requirements~~].

Section 11. KRS 45A.180 is amended to read as follows:

***(1)*** The secretary of the Finance and Administration Cabinet shall issue regulations providing for as many alternative methods of management of construction contracting as he may determine to be feasible, setting forth criteria to be used in determining which method of management of construction is to be used for a particular project, and granting to the purchasing officer, or the purchasing agency responsible for carrying out the construction project, the discretion to select the appropriate method of construction contracting for a particular project, provided, however, that the purchasing officer shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of management of construction contracting in each instance.

***(2) The cabinet shall review all capital construction projects exceeding two hundred fifty thousand dollars ($250,000) and shall determine if the use of a construction manager is an economically efficient alternative to using a general contractor.***

***(3) Beginning July 1, 1990, the cabinet shall make and deliver quarterly reports to the Legislative Research Commission within thirty (30) days after the end of each quarter, for review by the Capital Projects and Bond Oversight Committee. After the review by the Capital Projects and Bond Oversight Committee, the Legislative Research Commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter making up the substance of the quarterly report. The quarterly reports shall list each project reviewed during the preceding quarter and shall include the determination made concerning the selection of a construction manager or general contractor to manage each capital construction project exceeding two hundred fifty thousand dollars ($250,000).***

Section 12. KRS 45A.190 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty thousand dollars ($50,000)*** [~~twenty-five thousand dollars ($25,000)~~], the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) ***When a computer software or printing contract is awarded, a performance bond shall be furnished to the Commonwealth, as obligee with surety satisfactory to the purchasing agency, when required by the terms of an invitation for bids, or solicitation or request for proposals.***

***(3) No performance or payment bonds shall be required other than those specified in subsections (1) and (2) of this section, unless otherwise provided for by law*** [~~Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section~~].

Section 13. KRS 45.360 is amended to read as follows:

(1) The Finance and Administration Cabinet shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the Finance and Administration Cabinet, food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, scientific, or artistic services (contracts exempted by this provision shall be reviewed and approved in accordance with KRS 45.710 to 45.720);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the Finance and Administration Cabinet, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(3) The Finance and Administration Cabinet shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall promulgate administrative regulations to govern purchasing by or for all such agencies, subject to the approval of the secretary of the Finance and Administration Cabinet, and shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the cabinet or made under general regulations which the Finance and Administration Cabinet may prescribe.

(4) The Finance and Administration Cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The Finance and Administration Cabinet shall conduct periodic physical audits of inventories.

(5) The Finance and Administration Cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the Finance and Administration Cabinet prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The Finance and Administration Cabinet shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the ***Finance and Administration Cabinet*** [~~department~~], or the [~~department of~~] Transportation ***Cabinet*** for such requirements of that ***cabinet*** [~~department~~].

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of KRS Chapter 45A, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department, or the department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the Finance and Administration Cabinet in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make ***annual*** [~~periodic~~] summary reports***, in written form within sixty (60) days after the end of each fiscal year,*** of all transactions to [~~the secretary of the Finance and Administration Cabinet,~~] the Governor, and the ***Legislative Research Commission for review by the appropriate committee of jurisdiction*** [~~general assembly~~]. The Finance and Administration Cabinet shall also ***provide written reports on*** [~~report~~] trends in costs and prices, including savings realized through improved practices, to the above authorities. ***The reports shall include but not be limited to:***

***(a) The total number of purchasing transactions made and the total dollar volume of those purchases;***

***(b) The total number of bid invitations processed and:***

***1. Of the total bid invitations processed, the number of purchase contracts awarded and the total dollar volume of those contracts;***

***2. Of the total bid invitations processed, the number of invitations to bid sent to handicapped business enterprises, minority business enterprises, small business enterprises and woman business enterprises;***

***3. The number of responses to bid invitations received from handicapped business enterprises, minority business enterprises, small business enterprises and woman business enterprises, and the number of contracts and the dollar volume of contracts awarded to each of these types of business enterprises.***

(11) For capital construction projects, subject to the provisions of KRS Chapter 45A, the bidding may be on a total design-bid basis; a package system commonly referred to as "turnkey"; phase bidding commonly

referred to as "fast track"; or construction management, whichever in the judgment of the secretary of the Finance and Administration Cabinet offers the lowest real cost to the taxpayer. Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The Finance and Administration Cabinet shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years recovery basis and shall take into consideration the projected cost of fuel. The energy cabinet shall conduct thorough economic feasibility analyses on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and must issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. Such economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For such analyses, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 14. KRS 45.410 is amended to read as follows:

Purchases of less than ***two hundred dollars ($200.00)*** [~~fifty dollars ($50)~~], at the discretion of the Finance and Administration Cabinet, may be made on the open market by cash payment from petty cash accounts set aside for that purpose. The Finance and Administration Cabinet shall determine the amount of the petty cash account of each state agency, and inspect the petty cash accounts at least once each year to ensure that the total, plus amount of receipts for the unreplenished disbursements, is equal to the fixed sum of cash set aside. The Finance and Administration Cabinet shall make all necessary rules and regulations governing use and replenishment of petty cash funds. An agency shall not split or parcel purchases over a period of time to evade the provisions of this section or applicable regulations. In any case in which purchases are so split or parceled the agency head is liable for the amount by which the amount expended exceeds the amount authorized to be expended. In the case of a shortage in a petty cash account, the agency head is liable for the amount of the shortage.

Section 15. KRS 45.453 is amended to read as follows:

***(1)*** All bills shall be paid within thirty (30) working days of receipt of a vendor's invoice except when payment is delayed because the purchasing agency has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor's subcontractor.

***(2) Vendors shall pay their subcontractors or suppliers within ten (10) working days after the vendor's receipt of approved payment, due to him by the state, as required by contract for services performed or goods delivered by the vendor's subcontractors or suppliers.***

***(3) An interest penalty of one percent (1%) shall be paid by the vendor to his subcontractors or suppliers for services performed or goods delivered as required by contract on any amount approved by the state and unpaid by the vendor, for each month or fraction thereof after the ten (10) working days which followed the vendor's receipt of approved state payment which in part includes payment due the vendor's subcontractors or suppliers for services performed or supplies delivered as required by contract. This requirement shall be included in all contracts for goods, services, equipment and construction.***

SECTION 16. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

***As used in this chapter, the following definitions shall apply unless the context requires otherwise.***

***(1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.***

***(2) "Cabinet" means the Cabinet for Economic Development.***

***(3) "Certification" or "certified" means a determination made by the Division of Business Certification, pursuant to Section 17 of this Act, concerning the eligibility of a business which is seeking to obtain a federal government procurement contract or a Kentucky state or local government procurement contract.***

***(4) "Clearinghouse" means the Business Information Clearinghouse.***

***(5) "Commissioner" means the Commissioner of the Department of Small Business.***

***(6) "Controlled" or "control" means the exclusive or ultimate and sole control of the small business, including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular small business and control shall not include simple majority or absentee ownership.***

***(7) "Council" means the Small Business Advisory Council as established in KRS 152.956.***

***(8) "Department" means the Department of Small Business.***

***(9) "Determination" means a written response, provided by the director of the Division of Business Certification to a business applying for certification, documenting the reasons for denial or approval of a certification for whatever purpose.***

***(10) "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive, legislative or judicial branch of the state government.***

***(11) "Handicapped business enterprise," or*** HBE, means a small business which is certified as being at least fifty-one percent (51%) controlled by one or more resident citizens of the United States who are permanently handicapped persons, as determined by a notarized statement from a state or federal agency authorized by a state or federal law to determine that a person is permanently handicapped.

***(12) "Issuing agency" means any organizational unit of state government legally authorized to issue, suspend, continue in effect, revoke or enforce any license.***

***(13) "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any business activity.***

***(14) "Manager" means the manager of the clearinghouse.***

***(15) "May" means permissive.***

***(16) "Minority business enterprise," or MBE, means a small business which is certified as being at least fifty-one percent (51%) controlled by one or more ethnic minority persons, of either sex, who are resident citizens of the United States and who are certified as a member of one of the following ethnic minority groups:***

***(a) Black Americans: all persons easily identified as having origins in any of the Black racial groups of Africa;***

***(b) Hispanic Americans: all persons easily identified as persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin;***

***(c) Native Americans (American Indians, Alaskan Natives, Eskimos, Aleuts or Native Hawaiians): all persons easily identified as having origins in any of the original peoples of North America or Hawaii, or, in the case of American Indians, who maintain cultural identification through tribal affiliation recognized by the Bureau of Indian Affairs, United States Department of the Interior;***

***(d) Asian and Pacific Islander Americans: all persons easily identifiable as having origins in any of the original peoples of the Middle East, the Indian Subcontinent, Southeast Asia, East Asia, and Islands in the Pacific Ocean;***

***(e) It is the duty of the applicant to prove by a preponderance of the evidence that he is within the protected class.***

***(17) "Ombudsman" means an office or individual within the cabinet whose responsibility includes providing necessary information and assistance, within reason, to small business in dealing with the requirements of federal government and Kentucky state and local government procurement programs and their respective legal requirements.***

***(18) "Secretary" means the Secretary of the Cabinet for Economic Development.***

*(19) "Shall" means imperative.*

*(20) "Small business" means a certified business entity organized for profit, including but not limited to, any individual partnership, corporation, joint venture, association or cooperative, which entity is not affiliated or subsidiary of a business dominant in its field of operation, and has forty-nine (49) or fewer full-time employees or an equivalent number of part-time or seasonal employees and no more than the equivalent of two million dollars ($2,000,000) in annual gross revenues in each of the two preceding fiscal years and further qualifies as a* SBE, MBE, WBE or HBE.

*(21) "Small business enterprise," or* SBE, means a small business which is certified as being at least fifty-one percent (51%) controlled by one or more nonminority males who are resident citizens of the United States.

*(22) "Vendor catalog" means a compilation of vendor lists, including but not limited to, those which are maintained by the Finance and Administration Cabinet and the Transportation Cabinet. The vendor catalog shall include but not be limited to the following:*

*(a) Basic information illustrating the vendor's business name, address, phone number, and the type of procurement provided by the vendor;*

*(b) A listing of all vendors who have received and completed small purchase requests, pursuant to KRS 45A.100; and*

*(c) A categorization of business types according to the type of procurement.*

*(23) "Woman business enterprise," or WBE, means a small business which is certified as being at least fifty-one percent (51%) controlled by one or more nonminority females.*

*(24) "Work team" means a group of individuals assembled to study and make recommendations on the administration of a license and shall include representation from the issuing agency, the regulated industry, and representatives that have experience in the administration of licenses but no vested interest in the particular license that is being considered.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created an agency of the state government to be known as the Department of Small Business, which shall constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such governmental bodies and employees as are provided by law.*

*(2) The department, subject to the provisions of KRS 12.010 to 12.130, shall be organized into a Division of Small Business Enterprise, a Division of Minority Business Enterprise, a Division of Woman Business Enterprise, a Division of Handicapped Business Enterprise, Division of Business Certification, the Business Information Clearinghouse and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.*

*(3) The executive officer of the department shall be the commissioner of the Department of Small Business. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the Cabinet for Economic Development and the secretary of the Finance and Administration Cabinet, when such contracts are deemed necessary to implement and carry out the program of the department. The Commissioner shall also have authority to promulgate administrative regulations to implement the provisions of this section, pursuant to KRS Chapter 13A, upon approval of the Secretary of the Cabinet for Economic Development.*

*(4) The Division of Small Business Enterprise, the Division of Minority Business Enterprise, the Division of Woman Business Enterprise, the Division of Handicapped Business Enterprise, and the Division of Business Certification shall each be headed by directors appointed pursuant to KRS 12.050.*

*(5) Each of the divisions: Small Business Enterprise, Minority Business Enterprise, Woman Business Enterprise, and Handicapped Business Enterprise shall for their respective type of business enterprise have duties including but not be limited to the following:*

*(a) To collect, summarize and disseminate information helpful to small business, including information on:*

***1. Market research;***

***2. New business opportunities;***

***3. Federal, state and local business programs; and***

***4. The availability of managerial and employee training and assistance programs within the state educational system;***

***(b) To assist small business with federal, state and local government agencies, regulations and procurement programs;***

***(c) Provide staff assistance to the council;***

***(d) Provide information on federal, state and local small business programs and regulations;***

***(e) Make referrals to managerial and employee training and assistance programs within the state educational system; and***

***(f) Assist the Division of Business Certification in its effort to certify businesses that may be eligible to participate in federal, state and local procurement programs.***

***(6) The Commissioner of the Department of Small Business shall be designated an ombudsman for small business and shall perform the following duties, to include but not be limited to the following:***

***(a) Receive and refer complaints of small business to the council and the appropriate governmental bodies;***

***(b) Coordinate the activities of all governmental bodies performing functions affecting the operation of small business in the Commonwealth;***

***(c) Represent the interests of the council and small businesses in the Commonwealth before federal, state and local administration and regulatory agencies; and***

***(d) Prepare an annual report of the activities and recommendations of the council and the department and submit the report, within sixty days (60) after the end of each fiscal year, to the Governor and to the Legislative Research Commission for review by the appropriate committee of jurisdiction.***

***(7) The Business Information Clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements.***

***(8) The duties of the Division of Business Certification shall include but not be limited to the following:***

***(a) To identify, collect and disseminate information on the various business certification requirements of all federal agencies and Kentucky state and local government agencies which require a certification of eligibility to permit business participation in their respective procurement programs;***

***(b) To develop, implement and administer a centralized eligibility certification procedure which meets and may exceed the eligibility certification requirements of all federal agencies, and Kentucky state and local government agencies which require a certifcation of eligibility to permit business participation in their respective procurement programs;***

***(c) To provide the necessary information and assistance to businesses wanting to apply for certification;***

***(d) To make written determinations relating to the certification of each business for whatever purpose; and***

***(e) To promulgate administrative regulations pursuant to KRS Chapter 13A, within one hundred twenty (120) days after the effective date of this Act, upon approval of the Secretary of the Cabinet for Economic Development, to implement the provisions of a business eligibility certification procedure.***

***(9) Upon the adoption of administrative regulations, pursuant to subsection (8)(e) of this section, no governmental body of state government except the Division of Business Certification shall certify businesses for the purpose of being eligible to receive a federal government or Kentucky state or local government procurement contract.***

Section 18. KRS 152.010 is amended to read as follows:

As used in ***KRS 152.020 through 152.080*** [~~this chapter~~], unless the context requires otherwise:

(1) "Commissioner" means commissioner of the Department ***for Existing Business and Industry*** [~~of business development~~];

(2) "Department" means Department ***for Existing Business and Industry*** [~~of business development~~].

Section 19. KRS 152.020 is amended to read as follows:

(1) There is hereby created an agency of the state government to be known as the Department ***for Existing Business and Industry*** [~~of business development~~], which shall constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.130, shall be organized into a Division of Research and Planning, [~~a division of minority business, a division of small business assistance,~~] a Division of Industrial Development, [~~a business information clearinghouse~~] and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the Department ***for Existing Business and Industry*** [~~of business development~~]. The commissioner shall be appointed by the Governor and shall serve at the pleasure of the Governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the cabinet for Economic Development and the secretary of the Finance and Administration Cabinet, when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The Division of Research and Planning, [~~the division of minority business, the division of small business assistance~~] and the Division of Industrial Development shall each be headed by directors appointed pursuant to KRS 12.050.

(5) The Office of Administrative Services shall be headed by an executive director appointed by the secretary, with the approval of the Governor, pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the office of the secretary of the ***Cabinet for Economic Development*** [~~commerce cabinet.~~

~~(6) The business information clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores~~].

Section 20. KRS 152.060 is amended to read as follows:

(1) The department shall assemble and keep in the offices of the department such information relating to natural resources, industrial sites, labor supply, water, fuel, power, wage rates, taxation and assessments, transportation and communication facilities and such other information as may be useful in executing the provisions of KRS 152.010 to 152.080. Such information shall be made available to any enterprise which, in the discretion of the commissioner, is legitimate and which contemplates location or operation within the Commonwealth. Such information shall, in the discretion of the commissioner, be made available to any governmental or private agency interested in securing the location or operation of any such legitimate enterprise within the Commonwealth.

(2) The department shall obtain from enterprises interested in locating and operating within the Commonwealth information relating to the nature of the enterprise, its financial responsibility, manpower requirements, probable consumption of raw materials and such other information as may be useful in securing the location of such enterprise in the Commonwealth.

(3) The department shall be the primary industrial and commercial development agency of the Commonwealth of Kentucky in matters relating to the private sector of the state's economy. The department shall carry out programs relating to industrial and commercial development, research and planning, community and industrial services, marketing development, [~~small and minority business enterprise,~~] international trade and reverse investment, and other programs designated by the governor.

Section 21. KRS 152.953 is amended to read as follows:

(1) There is established in the Department ***of Small Business*** a Business Information Clearinghouse.

(2) By January 1, 1985, the clearinghouse shall develop and maintain a current list of all licenses arranged by the Standard Industrial Classification (SIC) developed by the U.S. Department of Labor or similar classification system as may be developed by the clearinghouse.

(3) The clearinghouse shall, to the extent possible, develop and distribute informational packets for each business classification. The informational packet for each business classification shall include applications, fee schedules and informational bulletins for the licenses most commonly required of businesses within that classification.

(4) The clearinghouse shall provide a toll-free telephone and referral service for the entire Commonwealth to aid new and continuing businesses with the licensing process.

(5) The clearinghouse shall maintain current information on other agencies' programs that provide business financing and management assistance and shall serve as a referral service to those programs.

(6) The manager shall encourage federal and local governments to participate by submitting copies of application forms for licenses applicable to businesses in the Commonwealth.

(7) Work teams may be assembled at the request of the issuing agency, the regulated industry, the governor or the general assembly. The clearinghouse and issuing agency shall coordinate the activities of and provide staff assistance to any work teams. Members of the work teams shall serve without compensation.

(8) The clearinghouse shall prepare an annual report summarizing its work for the Governor and the ***Legislative Research Commission to be reviewed by the appropriate committee of jurisdiction*** [~~general assembly~~]. In addition to other information specifically required to be in this report by KRS 152.959, the report shall include a list of all licenses arranged by business classification and agency, the reports of any work teams and may include recommendations on necessary statute or regulation changes to enable agencies to simplify or consolidate regulatory activities.

Section 22. KRS 152.956 is amended to read as follows:

(1) [~~There is established~~] A Small Business Advisory Council ***shall be established and it*** [~~which~~] shall serve in an advisory capacity to the ***Department of Small Business*** [~~division~~].

(2) The council shall be composed of ten (10) members who are officers or representatives of small businesses. The members of the council shall be appointed by the governor for four (4) year terms, except that five (5) of the initial members shall be appointed for two (2) year terms. Members may be reappointed.

(3) Members of the council shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council.

(4) The council shall meet as soon as practicable after the initial ten (10) members are appointed, and thereafter shall meet at least twice a year ***or*** [~~and~~] at the call of the ***commisioner*** [~~director~~]. The council shall annually elect one (1) of its members to serve as chairman.

(5) The council shall:

(a) Serve as a source of expertise and information on small businesses to the ***department*** [~~division~~];

(b) Keep the ***department*** [~~division~~] informed with respect to problems of, and matters affecting, small businesses;

(c) Advise the ***department*** [~~division~~], upon request of the ***department*** [~~division~~], with respect to any matters relating to small businesses.

***(d) Serve as a board of appeal for any determinations made by the Division of Business Certification relating to the certification of a business for whatever purpose, pursuant to Section 17 of this Act.***

Section 23. KRS 164.340 is amended to read as follows:

***Each*** [~~The governing~~] board ***of regents*** shall meet quarterly at the university or college or at such other place as is agreed upon. Upon written request of the president of the ***university or college*** [~~institution~~] or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money [~~shall be made~~] nor any contract that requires ***an appropriation or*** [~~a~~] disbursement of money shall be ***made*** [~~authorized~~], and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 24. KRS 164.410 is amended to read as follows:

(1) ***Each board of regents*** [~~The governing board of an institution of higher education~~] may***, on such terms as it regards best for the university or college,*** purchase or lease land for the purpose of securing

the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the ***university or college. Each board of regents may, when it regards it best for the school, sell and convey any real estate, buildings or equipment owned by it, but the proceeds arising from the sale must be reinvested in other real estate, buildings and equipment for the use of the university or college*** [~~institution~~].

[~~(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.~~

~~(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.~~]

SECTION 25. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established a Small Business Development Fund, to be managed by the Kentucky Development Finance Authority for the purpose of making loans to small businesses as defined in Section 27 of this Act.***

***(2) The authority shall make loans from the Small Business Development Fund in the aggregate amount of at least five million dollars ($5,000,000) each fiscal year, to businesses that qualify as a small business, as defined in Section 27 of this Act, and further qualify according to the financing terms and conditions of the authority, which are to be based on sound business practices.***

***(3) In order to provide at least five million dollars ($5,000,000) for the Small Business Development Fund each fiscal year, the authority shall pay into this fund any money appropriated or otherwise provided by the state or the authority for that purpose and any other money available to the authority for the purpose of developing small businesses.***

Section 26. KRS 154.005 is amended to read as follows:

It shall be the purpose of this chapter to create a body corporate and politic to be known as the "Kentucky Development Finance Authority" which shall exist and operate to help diversify the economy of this state, to develop and expand existing and alternative sources of energy and the conservation of energy, to assist ***large and small businesses*** [~~business enterprise~~] in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for ***large and small businesses*** [~~business enterprises~~], to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment. Such purposes shall be public purposes for which public money may be spent.

Section 27. KRS 154.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Authority" means the Kentucky development finance authority;

(2) ***"Certification" or "certified" shall mean a determination made by the Division of Business Certification of the Economic Development Cabinet, pursuant to KRS Chapter 152, that a small business is a small business enterprise, a minority business enterprise, a woman business enterprise or a handicapped business enterprise for whatever purpose.***

***(3) "Controlled" or "control" shall mean the exclusive or ultimate and sole control of the small business, including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and***

***to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular small business and control shall not include simple majority or absentee ownership.***

***(4)*** "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, [~~and~~] accounting fees***, and performance and payment bond premiums*** which are necessary for the project;

***(5) "Handicapped business enterprise," or*** HBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more resident citizens of the United States who are permanently handicapped persons, as determined by a notarized statement from a state or federal agency authorized by a state or federal law to determine that a person is permanently handicapped.

***(6) "Minority business enterprise," or MBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more ethnic minority persons, of either sex, who are resident citizens of the United States and who are certified as a member of one of the following ethnic minority groups:***

***(a) Black Americans: all persons easily identified as having origins in any of the Black racial groups of Africa;***

***(b) Hispanic Americans: all persons easily identified as persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin;***

***(c) Native Americans (American Indians, Alaskan Natives, Eskimos, Aleuts or Native Hawaiians): all persons easily identified as having origins in any of the original peoples of North America or Hawaii, or, in the case of American Indians, who maintain cultural identification through tribal affiliation recognized by the Bureau of Indian Affairs, United States Department of Interior;***

***(d) Asian and Pacific Islander Americans: all persons easily identifiable as having origins in any of the original peoples of the Middle East, the Indian Subcontinent, Southeast Asia, East Asia, and Islands in the Pacific Ocean; and***

***(e) It is the duty of the applicant to prove by a preponderance of the evidence that he is within the protected class.***

***(7)***[~~(3)~~] "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 to 65.300;

***(8)***[~~(4)~~] "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

***(9)***[~~(5)~~] "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

***(10)***[~~(6)~~] "Project" means an endeavor approved by the cabinet for economic development and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydro electric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing***, except that loans from the Small Business Development Fund may be made for a project that is devoted to the sale of goods at retail***;

***(11)***[~~(7)~~] "Reclamation Development Fund" means the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land;

***(12)***[~~(8)~~] "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (6) of this section;

***(13)***[~~(9)~~] "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project; [~~and~~]

***(14) "Small business" shall mean a certified business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity is not affiliated or subsidiary of a business dominant in its field of operation, and has forty-nine (49) or fewer full-time employees or an equivalent number of part-time or seasonal employees and no more than the equivalent of two million dollars ($2,000,000) in annual gross revenues in each of the two preceding fiscal years and further qualifies as a*** SBE, MBE, WBE, or HBE;

***(15) "Small Business Deveopment Fund" means a fund of the authority created pursuant to Section 25 of this Act, from which loans can be made only to a small business, as defined in this section;***

***(16) "Small business enterprise," or*** SBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more nonminority males who are resident citizens of the United States;

***(17)***[~~(10)~~] "State" means the Commonwealth of Kentucky***; and***

***(18) "Woman business enterprise," or WBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more nonminority females who are resident citizens of the United States.***

Section 28. KRS 154.020 is amended to read as follows:

(1) There shall be a development finance authority in the state government which shall be known as the Kentucky Development Finance Authority, which shall be an independent agency of the Commonwealth reporting to the secretary of the Cabinet for Economic Development, but not attached to any administrative department.

(2) The authority shall consist of the secretary of the Cabinet for Economic Development, the secretary of the Tourism Cabinet, and the secretary of the Finance and Administration Cabinet, and eleven (11) at large members appointed by the governor. Effective July 15, 1988, of the eleven (11) at large members, three (3) shall be representative of industrial or manufacturing interests, two (2) shall be representative of agricultural interests, two (2) shall be representative of tourism interests, two (2) shall be representative of mining interests, and two (2) shall ***be representative of small businesses*** [~~represent the public at large~~]. The chairman shall be the secretary of the Cabinet for Economic Development and the vice-chairman shall be the secretary of the Finance and Administration Cabinet.

(3) Two (2) members initially appointed by the governor shall be appointed for a term of one (1) year, two (2) members for two (2), two (2) for three (3), and three (3) for four (4) years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the governor at the time of his appointment. Their successors shall each be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member of the authority shall be eligible for reappointment.

(4) Members of the authority shall be entitled to compensation for their services as members in the amount of one hundred dollars ($100) for each regular meeting of the authority, and shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

(5) A majority of the members shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof, and all action may be taken by a vote of a majority of the members present, except where regulations of the authority prescribe a larger number.

(6) The authority may make reimbursement to any agency of the state for special expenses incurred in the provision of any services or the use of any facilities required by the authority.

Section 29. KRS 154.025 is amended to read as follows:

(1) The authority shall make all policy as it pertains to personnel, consultants, payroll and other expenses. The authority may request that the secretary of the Cabinet for Economic Development assign housekeeping duties to one (1) of its departments and the secretary of the Cabinet for Economic Development shall honor such request. Housekeeping duties shall include, by way of example, those functions normally performed by a fiscal officer and personnel officer.

(2) The authority may appoint an executive director and fix his salary, subject to the approval of the commissioner of personnel. The executive director shall perform, in the name of the authority, such functions and duties and may exercise such powers of the authority as the authority may delegate to him, including the provision of staff services for the authority and each committee thereof. The executive director shall be dismissed only with the approval of ***a majority of*** the ***total membership of the*** authority.

Section 30. KRS 154.053 is amended to read as follows:

(1) Insurance, guarantees, or letters of credit shall not be provided or procured unless the authority shall be legally assured that the loans, debentures, or leases insured, or guaranteed, or for which letters of credit are issued, will be used to assist projects which also have significant private sector financial support***, except for loans made from the Small Business Development Fund pursuant to Section 25 of this Act***.

(2) Insurance, guarantees, or letters of credit may be provided or procured on the terms and conditions the authority, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the authority and this chapter.

(3) The authority may charge the lender or the borrower, or both, a fee or premium for loan, debenture, or lease insurance, guarantee, or letter of credit. Guidelines for premiums or fees charged by the authority for loan, debenture, or lease insuranced guarantees, or letters of credit shall be established by the authority.

Section 31. KRS 154.180 is amended to read as follows:

(1) ***Within thirty (30) days after*** [~~On or before~~] October 1, 1988, and ***within thirty (30) days after*** [~~on or before~~] the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, which is in progress, along with an updated cost of a project, as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) ***Within sixty (60) days after*** [~~On or before~~] the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction or alteration, financed or facilitated in whole or in part by the authority granted by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, shall be reported to the Kentucky Department of Employment Services, Cabinet for Human Resources and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This report shall be entitled "K.D.F.A. Construction Activity Report" and shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

(4) If the authority fails to deliver the written project status report, K.D.F.A. Construction Activity Report, or the overview report to the appropriate agency as specified in this section, within fifteen (15) days after the required due date, the salary of the executive director of the Kentucky Development Finance Authority shall be withheld until such report is received.

Section 32. KRS 152.958 is amended to read as follows:

(1) The manager of the clearinghouse may promulgate administrative regulations as may be necessary to effectuate the provisions of KRS ***152.953*** [~~152.952~~] to 152.956, including, but not limited to:

(a) Regulations establishing reasonable time schedules for agency response to license applications for licenses included in the program where such time schedules have not been set by statute;

(b) Regulations establishing procedures to delete from the master license any licenses which expire or are suspended or revoked by the issuing agency; and

(c) Regulations establishing procedures for the issuance of such temporary licenses as may be authorized by other law for licenses included in the program.

The manager may confer with the interim legislative committee having jurisdiction over small business prior to submitting new regulations.

(2) Irrespective of any authority delegated to the clearinghouse to implement the provisions of KRS ***152.953*** [~~152.952~~] to 152.956, the authority for determining if any requested license shall be issued and the authority to suspend, continue in effect, revoke, or enforce a license which is a part of the master license shall remain with the issuing agency.

Section 33. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.010***(10)*** [~~(6)~~].

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 34. The following KRS sections are repealed:

45.470 Definitions.

45.480 Standards, classifications, and definitions fixed by regulations.

45.490 Procedures, qualifications for bidding.

45.500 Rejection of bids.

45.510 Title.

57.071 Bond of bidders — condition.

152.950 Definitions.

152.952 Division of small business assistance — duties.

164A.550 Definitions for KRS 164A.555 to 164A.630.

164A.555 Transfer of funds to institutions.

164A.560 Election by institution to perform in accordance with KRS 164A.555 to 164A.630 — regulations.

164A.565 Accrual basis accounting system — other records — annual report.

164A.570 Annual audit.

164A.575 Purchasing — inventories — sale of surplus property — bidding procedures.

164A.580 Management of capital construction projects.

164A.585 Contracting for capital construction projects.

164A.590 Contracting for architectural and engineering services.

164A.595 Carrying out of capital construction projects.

164A.600 Procedures and limitations of KRS 45.750 through 45.800 apply — projects limited to scope authorized by general assembly.

164A.605 Issuance of bonds.

164A.610 Organization and operation of affiliated corporations.

164A.615 Acceptance of gifts — awarding of scholarships, grants, etc.

164A.620 Fund for excellence.

164A.625 Severability clause.

164A.630 Statutes binding the board.

Section 35. Whereas, it is desirable to start the programs effected by this Act with the fiscal year, an emergency is declared to exist, and upon its passage and approval this Act shall become effective July 1, 1990.

The Committee Substitute to **HB 610** is as follows:

**HB 610**, AN ACT relating to small business development and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 45A.030 is amended to read as follows:

The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.

(1) "Business" shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(2) ***"Certification" or "certified" shall mean a determination made by the Business Certification Section of the Finance and Administration Cabinet, pursuant to KRS Chapter 45, that a small business is a non-minority business enterprise, a minority business enterprise, a woman business enterprise or a handicapped business enterprise for whatever purpose.***

***(3) "Cabinet" shall mean the Finance and Administration Cabinet.***

***(4) "Challenge" shall mean a process, established by the Business Certification Section of the Finance and Administration Cabinet, and issued as administrative regulations pursuant to KRS Chapter 13A, in which a third party questions the certification of a small business.***

***(5)***[~~(2)~~] "Change order" shall mean a written order signed by the purchasing officer, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor.

***(6)***[~~(3)~~] "Chief purchasing officer" shall mean the secretary of the finance and administration cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177 and 180.

***(7)***[~~(4)~~] "Construction" shall mean the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property.

***(8)***[~~(5)~~] "Contract" shall mean all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It shall include awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It also includes supplemental agreements with respect to any of the foregoing.

***(9)***[~~(6)~~] "Contract modification" shall mean any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It shall include bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

***(10)***[~~(7)~~] "Contractor" shall mean any person having ***or seeking*** a ***state procurement*** contract ***from*** [~~with~~] a governmental body.

***(11) "Controlled" or "control" shall mean the exclusive or ultimate and sole control of the small business, including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular small business and control shall not include simple majority or absentee ownership.***

***(12)***[~~(8)~~] "Data" shall mean recorded information, regardless of form or characteristic.

***(13)***[~~(9)~~] "Designee" shall mean a duly authorized representative of a person holding a superior position.

***(14)***[~~(10)~~] "Employee" shall mean an individual drawing a salary from a governmental body, whether elected or not, and any non-salaried individual performing personal services for any governmental body.

***(15) "Good faith" shall mean honesty in fact in the conduct or transaction concerned in implementing Section 2 of this Act and the observance of reasonable commercial standards of fair dealing.***

***(16)***[~~(11)~~] "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive, [~~or~~] legislative ***or judicial*** branch of the state government.

***(17) "Handicapped business enterprise," or*** HBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more resident citizens of the United States who are permanently handicapped persons, as determined by a notarized statement from a state or federal agency authorized by a state or federal law to determine that a person is permanently handicapped.

***(18)***[~~(12)~~] "May" shall mean permissive.

***(19) "Minority business enterprise," or MBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more ethnic minority persons, of either sex, who are resident citizens of the United States and who are certified as a member of one of the following ethnic minority groups:***

***(a) Black Americans: all persons easily identified as having origins in any of the Black racial groups of Africa;***

***(b) Hispanic Americans: all persons easily identified as persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin;***

***(c) Native Americans (American Indians, Alaskan Natives, Eskimos, Aleuts or Native Hawaiians): all persons easily identified as having origins in any of the original peoples of North America or Hawaii, or, in the case of American Indians, who maintain cultural identification through tribal affiliation recognized by the Bureau of Indian Affairs, United States Department of the Interior;***

***(d) Asian and Pacific Islander Americans: all persons easily identifiable as having origins in any of the original peoples of the Middle East, the Indian Subcontinent, Southeast Asia, East Asia, and Islands in the Pacific Ocean;***

***(e) It is the duty of the applicant to prove by a preponderance of the evidence that he is within the protected class.***

***(20)***[~~(13)~~] "Negotiation" shall mean contracting by either the method set forth in KRS 45A.085, 45A.090 or 45A.095.

***(21) "Non-minority business enterprise," or NBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one (1) or more non-minority males who are resident citizens of the United States.***

***(22) "Ombudsman" shall mean an office or individual within the cabinet whose responsibility includes providing necessary information and assistance, within reason, to small business or any other business in dealing with the requirements of KRS Chapters 45 and 45A and other relevant statutes and administrative regulations.***

***(23) "Permissive goal" shall mean the achievement of an end toward which a good faith effort is directed.***

***(24)***[~~(14)~~] "Person" shall mean any business, individual, organization or group of individuals.

***(25)***[~~(15)~~] "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

***(26)***[~~(16)~~] "Purchase request" or "purchase requisition" shall mean that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025.

***(27)***[~~(17)~~] "Purchasing agency" shall mean any governmental body which is authorized by this code or its implementing regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer.

***(28)***[~~(18)~~] "Purchasing officer" shall mean any person authorized by a governmental body in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term shall also include an authorized representative acting within the limits of authority.

***(29) "Secretary" shall mean the secretary of the Finance and Administration Cabinet.***

***(30)***[~~(19)~~] "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services.

***(31)***[~~(20)~~] "Shall" shall mean imperative.

***(32) "Sham or front company" means any business established or in existence which falsely represents that business to be a small business operated or operating for the purpose of obtaining funds, contracts, subcontracts, services or other benefits from any local government agency of this Commonwealth, or state government agency of this Commonwealth or from any federal government agency.***

***(33) "Small business" shall mean a certified business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity is not affiliated or subsidiary of a business dominant in its field of operation, and has forty-nine (49) or fewer full-time employees or an equivalent number of part-time or seasonal employees and no more than the equivalent of two million dollars ($2,000,000) in annual gross revenues in each of the two preceding fiscal years and further qualifies as a NBE, MBE, WBE or*** HBE.

*(34) "Small business participation" or "participation" shall mean the inclusion of a small business through one (1) of the following state contract opportunities, including but not limited to:*

*(a) Small business set-aside competitive bidding, pursuant to Section 3 of this Act; or*

*(b) Competitive sealed bidding, pursuant to KRS 45A.080; or*

*(c) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090; or*

*(d) Noncompetitive negotiation, pursuant to KRS 45A.095; or*

*(e) Small purchase procedures, pursuant to KRS 45A.100; or*

*(f) Professional, technical, scientific, or artistic services which are required to be reviewed and approved in accordance with KRS 45.710 to 45.720; or*

*(g) Transportation Cabinet contracts, of which only state funds are expended, pursuant to KRS Chapters 176 and 177.*

*(35) "Small business set-aside competitive bidding" shall mean a contract or purchase request for which bids are to be invited and accepted only from a small business.*

*(36) "Subcontractor" or "supplier" shall mean a business or small business that maintains or wants to enter into a contractual relationship with a contractor for the purpose of the contractor fulfilling his contract obligation to the Commonwealth.*

*(37)*[~~(21)~~] "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

*(38)*[~~(22)~~] "Supplies" shall mean all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land.

*(39)*[~~(23)~~] "Using agency" shall mean any governmental body of the state which utilizes any supplies, services, or construction purchased under this code.

*(40) "Waiver" shall mean a written approval provided by the secretary or his designee within the cabinet with the secretary's signature authority, granting an exemption to a governmental body unable to include small business participation in any particular procurement contract, if the Secretary determines that the waiver is justified.*

*(41) "Waiver request" shall mean a written explanation submitted to the secretary or his designee within the cabinet with the secretary's signature authority, by a governmental body with purchasing authority, explaining why it is unable to meet the permissive goal of thirty-six percent (36%) for small business participation on any particular procurement contract.*

*(42) "Woman business enterprise," or WBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one or more non-minority females who are resident citizens of the United States.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

*(1) It shall be the policy of the Finance and Administration Cabinet that small business shall have the maximum opportunity to participate in the procurement of state contracts.*

*(2) The Finance and Administration Cabinet shall encourage every governmental body of this Commonwealth with purchasing authority to make a good faith effort to achieve a small business participation permissive goal of thirty-six percent (36%) on every state procurement contract for each fiscal year after the effective date of this Act, until the expiration of this Act upon adjournment sine die of the 2000 General Assembly. The permissive goal of thirty-six percent (36%) for small business participation shall include the following:*

*(a) A twenty percent (20%) permissive goal for non-minority business enterprise participation;*

*(b) A ten percent (10%) permissive goal for minority business enterprise participation;*

*(c) A five percent (5%) permissive goal for woman business enterprise participation; and*

*(d) A one percent (1%) permissive goal for handicapped business enterprise participation.*

*(3) A small business shall be certified as such prior to receiving a procurement contract pursuant to this Act and shall be certified every two years thereafter.*

*(4) A small business shall not be eligible to be certified in more than one enterprise category.*

*(5) Any person who fraudently establishes or assists in establishing, or operates or assists in operating, or conspires to establish or operate a sham or front company, as defined in this Act, shall be guilty of a Class D felony.*

*(6) Any governmental body that is unable to achieve the permissive goal of thirty-six percent (36%) for small business participation on any procurement contract shall submit a waiver request to the secretary or his designee within the cabinet with the secretary's signature authority and receive a waiver in response, prior to letting the contract for which the waiver request was submitted.*

*(7) Upon receiving a waiver request, the secretary or his designee within the cabinet with the secretary's signature authority shall respond in a timely manner with either a waiver approval or denial.*

*(8) Beginning July 1, 1990, and continuing for a period of four (4) fiscal years thereafter, each governmental body with purchasing authority shall maintain records and make semiannual reports to the cabinet concerning their success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The semiannual reports shall be delivered to the cabinet within thirty (30) calendar days after the end of each semiannual period of each fiscal year. Beginning July 1, 1994, each governmental body with purchasing authority shall maintain records and make annual reports to the cabinet concerning their success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The annual reports shall be delivered to the cabinet within thirty (30) calendar days after the end of each fiscal year. The reports required herein shall be in a form approved by the cabinet, to be prescribed by administrative regulation pursuant to KRS Chapter 13A.*

*(9) Beginning July 1, 1990, and continuing for a period of four (4) fiscal years thereafter, the cabinet shall maintain records and make semiannual reports to the Legislative Research Commission, for review by the appropriate committee of jurisdiction, concerning each governmental body's success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The semiannual reports shall be delivered to the Legislative Research Commission within sixty (60) calendar days after the end of each semiannual period of each fiscal year. Beginning July 1, 1994, the cabinet shall maintain records and make annual reports to the Legislative Research Commission, for review by the appropriate committee of jurisdiction, concerning each governmental body's success in achieving the small business participation permissive goal of thirty-six percent (36%) on all state procurement contracts let pursuant to their purchasing authority. The annual reports shall be delivered to the Legislative Research Commission within sixty (60) calendar days after the end of each fiscal year.*

*(10) The cabinet shall promulgate the necessary administrative regulations to implement the provisions of this section, pursuant to KRS Chapter 13A, within ninety (90) days after the effective date of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

*(1) The cabinet may designate any contract for goods, equipment, construction or services as a small business set-aside competitive bidding for the purpose of achieving the small business participation permissive goal of thirty-six percent (36%). A small business set-aside competitive bidding designation shall be made prior to the advertisement for bids, and the advertisement shall indicate this invitation as a small business set-aside competitive bidding.*

*(2) If the cabinet chooses to designate a small business set-aside competitive bidding, it shall send invitation for bids to every small business on the small business vendor list which is known to provide the particular type of goods, equipment, construction or services required by the specifications in the invitations for bids or requests for proposals.*

*(3) Bids that are received from bidders who are not certified as a small business shall be rejected.*

*(4) The cabinet shall award the small business set-aside competitive bidding contract to the lowest and best responsible small business bidder meeting specifications.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby established within the Finance and Administration Cabinet an Office of Equal Employment Opportunity Contract Compliance which shall be headed by an executive director appointed pursuant to KRS 12.050. The office shall implement the provisions of the Kentucky Equal Employment Opportunity Act of 1978, and establish procedures to insure compliance with its provisions.*

*(2) The Office of Equal Employment Opportunity Contract Compliance shall utilize all available sources to prepare a detailed list of minority contractors throughout the Commonwealth. The office shall notify*

*all such contractors of potential public contracts, and shall assist them in the preparation and submission of bids .*

*(3) The office shall pursue a policy to insure that all contractors, subcontractors, and contracting agencies with contracts covered by KRS 45.560 to 45.640 shall include in their work force proportionate numbers of minorities as defined in KRS 45.620(3) reflective of the drawing area for which the contract is let.*

*(4) There is hereby created a Procurement Assistance Section within the Office of Equal Employment Opportunity Contract Compliance. The section shall be headed by an assistant director who shall be appointed to the classified service as provided in KRS 18A.010. The assistant director shall be a graduate of an accredited college or university and have at least three (3) years experience in state purchasing or in lieu of a college or university degree the assistant director may have an equivalent number of years of experience in state purchasing.*

*(5) The assistant director of the Procurement Assistance Section shall serve as an ombudsman for businesses, especially small businesses, that want to obtain state procurement contracts. The duties of the assistant director shall include but not be limited to the following:*

*(a) Providing a guide for businesses, especially small businesses, on the purchasing procedures and practices of governmental bodies, and taking steps to ensure the inclusion of businesses, especially small businesses, on the vendor lists of the cabinet;*

*(b) Informing businesses, especially small businesses, concerning state procurement opportunities;*

*(c) Assisting businesses, especially small businesses, in complying with the procedures for bidding on state contracts;*

*(d) Working with state and federal agencies and with private organizations in disseminating information on state procurement procedures and the opportunities for businesses, especially small businesses, to participate in state contracts;*

*(e) Assisting state agencies with the development of a comprehensive small business vendor catalog capable of providing information on sources of materials, supplies, equipment, or services to the state; and*

*(f) Making recommendations to governmental bodies for simplification of contract terms and conditions to increase state contracting opportunities for businesses, especially small businesses.*

*(6) The assistant director shall have general supervision and direction over all the duties, functions and activities of the Procurement Assistance Section and shall be responsible for carrying out the programs and policies of the section office.*

*(7) The assistant director of the Procurement Assistance Section shall have access to all records generated by each governmental body, pursuant to KRS Chapters 45 and 45A.*

*(8) The executive director of the Office of Equal Employment Opportunity Contract Compliance, upon approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations within ninety (90) days after the effective date of this Act, pursuant to KRS Chapter 13A, to implement the provisions of this section.*

*(9) There is hereby created a Business Certification Section within the Office of Equal Employment Opportunity Contract Compliance. The section shall be headed by an assistant director who shall be appointed to the classified service as provided in KRS 18A.010. The assistant director shall be a graduate of an accredited college or university or in lieu thereof may have an equivalent number of years of experience.*

*(10) The duties of the Business Certification Section shall include but shall not be limited to the following:*

*(a) To identify, collect and disseminate information on the various business certification requirements of all federal agencies and Kentucky state and local government agencies which require a certification of eligibility to permit business participation in their respective procurement programs;*

*(b) To develop, implement and administer a centralized eligibility certification procedure which meets and may exceed the eligibility certification requirements of all federal agencies, and Kentucky state and local government agencies which require a certification of eligibility to permit business participation in their respective procurement programs;*

*(c) To provide the necessary information and assistance to businesses wanting to apply for certification;*

*(d) To make written determinations relating to the certification of each business for whatever purpose; and*

***(11) The executive director of the Office of Equal Employment Opportunity Contract Compliance shall promulgate administrative regulations pursuant to KRS Chapter 13A, within one hundred twenty (120) days after the effective date of this Act, upon approval of the secretary of the Finance and Administration Cabinet, to implement the provisions of a business eligibility certification procedure, pursuant to this section.***

***(12) Upon the adoption of administrative regulations, pursuant to subsection (11) of this section, no governmental body of state government except the Business Certification Section shall certify businesses for the purpose of being eligible to receive a federal government or Kentucky state or local government procurement contract.***

Section 5. The following KRS sections are repealed:

45.470 Definitions.

45.480 Standards, classifications, and definitions fixed by regulations.

45.490 Procedures, qualifications for bidding.

45.500 Rejection of bids.

45.510 Title.

Section 6. Whereas, it is desirable to start the programs effected by this Act with the fiscal year, an emergency is declared to exist, and upon its passage and approval this Act shall become effective July 1, 1990.

The Committee Amendment No. 1 to the Committee Substitute to **HB 610** is as follows:

Amend printed copy of **HB 610/HCS** on page 6, line 22, after "***States***" and before the period, by inserting the following: "***, including but not limited to small businesses within counties of this Commonwealth with a population of fifty thousand (50,000) or less, and with a poverty rate above fifteen percent (15%)***".

**HB 906.** AN ACT relating to state purchasing and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 45A.030 is amended to read as follows:

The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.

(1) "Business" shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(2) ***"Certification" or "certified" shall mean a determination made by the Division of Business Certification of the Economic Development Cabinet, pursuant to KRS Chapter 152, that a small business is a small business enterprise, a minority business enterprise, a woman business enterprise or a handicapped business enterprise for whatever purpose.***

***(3) "Cabinet" shall mean the Finance and Administration Cabinet.***

***(4) "Challenge" shall mean a process, established by the Division of Business Certification of the Cabinet for Economic Development, and issued as administrative regulations pursuant to KRS Chapter 13A, in which a third party questions the certification of a small business.***

***(5)***[~~(2)~~] "Change order" shall mean a written order signed by the purchasing officer, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor.

***(6)***[~~(3)~~] "Chief purchasing officer" shall mean the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177 and 180.

***(7)***[~~(4)~~] "Construction" shall mean the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property.

***(8)***[~~(5)~~] "Contract" shall mean all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It shall include awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It also includes supplemental agreements with respect to any of the foregoing.

***(9)***[~~(6)~~] "Contract modification" shall mean any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It shall include bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

***(10)***[~~(7)~~] "Contractor" shall mean any person having ***or seeking*** a ***state procurement*** contract ***from*** [~~with~~] a governmental body.

***(11) "Controlled" or "control" shall mean the exclusive or ultimate and sole control of the small business, including, but not limited to, capital investment and all other financial matters; property; acquisitions; contract negotiations; legal matters; selection and comprehensive hiring officers, directors and employees, operating responsibilities; cost control matters; income and dividend matters; financial transactions; and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular small business and control shall not include simple majority or absentee ownership.***

***(12)***[~~(8)~~] "Data" shall mean recorded information, regardless of form or characteristic.

***(13)***[~~(9)~~] "Designee" shall mean a duly authorized representative of a person holding a superior position.

***(14)***[~~(10)~~] "Employee" shall mean an individual drawing a salary from a governmental body, whether elected or not, and any non-salaried individual performing personal services for any governmental body.

***(15) "Good faith" shall mean honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.***

***(16)***[~~(11)~~] "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive, [~~or~~] legislative ***or judicial*** branch of the state government.

***(17) "Handicapped business enterprise," shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one (1) or more resident citizens of the United States who are permanently handicapped persons, as determined by a notarized statement from a state or federal agency authorized by a state or federal law to determine that a person is permanently handicapped.***

***(18)***[~~(12)~~] "May" shall mean permissive.

***(19) "Minority business enterprise," shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one (1) or more ethnic minority persons, of either sex, who are resident citizens of the United States and who are certified as a member of one of the following ethnic minority groups:***

***(a) Black Americans: all persons easily identified as having origins in any of the black racial groups of Africa;***

***(b) Hispanic Americans: all persons easily identified as persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin;***

***(c) Native Americans, including American Indians, Alaskan Natives, Eskimos, Aleuts or Native Hawaiians: all persons easily identified as having origins in any of the original peoples of North America or Hawaii, or, in the case of American Indians, who maintain cultural identification through tribal affiliation recognized by the Bureau of Indian Affairs, United States Department of the Interior;***

***(d) Asian and Pacific Islander Americans: all persons easily identifiable as having origins in any of the original peoples of the Middle East, the Indian Subcontinent, Southeast Asia, East Asia, and Islands in the Pacific Ocean;***

***(e) It shall be the duty of the applicant to prove by a preponderance of the evidence that he is within the protected class.***

***(20)***[~~(13)~~] "Negotiation" shall mean contracting by either the method set forth in KRS 45A.085, 45A.090 or 45A.095.

***(21) "Ombudsman" shall mean an office or individual within the Cabinet whose responsibility includes providing necessary information and assistance, within reason, to small business or any other business in dealing with the requirements of KRS Chapters 45 and 45A and other relevant statutes and administrative regulations.***

***(22) "Permissive goal" shall mean the achievement of an end toward which a good faith effort is directed.***

***(23)***[~~(14)~~] "Person" shall mean any business, individual, organization or group of individuals.

***(24)***[~~(15)~~] "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

***(25)***[~~(16)~~] "Purchase request" or "purchase requisition" shall mean that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025.

***(26)***[~~(17)~~] "Purchasing agency" shall mean any governmental body which is authorized by this code or its implementing regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer.

***(27)***[~~(18)~~] "Purchasing officer" shall mean any person authorized by a governmental body in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term shall also include an authorized representative acting within the limits of authority.

***(28) "Secretary" shall mean the secretary of the Finance and Administration Cabinet.***

***(29)***[~~(19)~~] "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services.

***(30)***[~~(20)~~] "Shall" shall mean imperative.

***(31) "Sham or front company" shall mean any business which falsely represents itself as a small business for the purpose of obtaining funds, contracts, subcontracts, services or other benefits pursuant to this Act.***

***(32) "Small business" shall mean a certified business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity is not affiliated or subsidiary of a business dominant in its field of operation, and has forty-nine (49) or fewer full-time employees or an equivalent number of part-time or seasonal employees and no more than the equivalent of two million dollars ($2,000,000) in annual gross revenues in each of the two preceding fiscal years and further qualifies as a small, minority, woman or handicapped business enterprise.***

***(33) "Small business enterprise," or*** SBE, shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one (1) or more nonminority males who are resident citizens of the United States.

***(34) "Small business participation" or "participation" shall mean the inclusion of a small business through one (1) of the following state contract opportunities, including but not limited to:***

***(a) Small business set-aside competitive bidding, pursuant to Section 2 of this Act; or***

***(b) Competitive sealed bidding, pursuant to KRS 45A.080; or***

***(c) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090; or***

***(d) Noncompetitive negotiation, pursuant to KRS 45A.095; or***

***(e) Small purchase procedures, pursuant to KRS 45A.100; or***

***(f) Professional, technical, scientific, or artistic services which are required to be reviewed and approved in accordance with KRS 45.710 to 45.720; or***

***(g) Transportation Cabinet contracts, of which only state funds are expended, pursuant to KRS Chapters 176 and 177.***

***(35) "Small business set-aside competitive bidding" shall mean a contract or purchase request for which bids are to be invited and accepted only from a small business.***

***(36) "Subcontractor" or "supplier" shall mean a business or small business that maintains or wants to enter into a contractual relationship with a contractor for the purpose of the contractor fulfilling his contract obligation to the Commonwealth.***

***(37)***[~~(21)~~] "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

***(38)***[~~(22)~~] "Supplies" shall mean all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land.

***(39)***[~~(23)~~] "Using agency" shall mean any governmental body of the state which utilizes any supplies, services, or construction purchased under this code.

***(40) "Vendor catalog" shall mean a compilation of vendor lists, including but not limited to those which are maintained by the Finance and Administration Cabinet and the Transportation Cabinet. The vendor catalog shall include but not be limited to the following:***

***(a) Basic information illustrating the vendor's business name, address, phone number, and the type of commodities or services provided by the vendor;***

***(b) A listing of all vendors who have received and completed small purchase requests, pursuant to KRS 45A.100; and***

***(c) A categorization of business types according to the type of commodity or service.***

***(41) "Waiver" shall mean a written approval provided by the secretary of finance, granting an exemption to a governmental body unable to include small business participation in any particular procurement contract, if the secretary determines that the waiver is justified.***

***(42) "Waiver request" shall mean a written explanation submitted to the secretary, by a governmental body with purchasing authority, explaining why it is unable to meet the permissive goal of thirty-six percent (36%) for small business participation on any particular procurement contract.***

***(43) "Woman business enterprise," shall mean a small business which is certified as being at least fifty-one percent (51%) controlled by one (1) or more nonminority females who are resident citizens of the United States.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***(1) The cabinet may designate any contract for goods, equipment, construction or services as a small business set-aside competitive bidding. A small business set-aside designation shall be made prior to the advertisement for bids, and the advertisement shall indicate this invitation as a small business set-aside.***

***(2) If the cabinet chooses to designate a small business set-aside, it shall send invitation for bids to every small business on the vendor list which is known to provide the particular type of goods, equipment, construction or services required by the specifications in the invitations for bids or requests for proposals.***

***(3) Bids that are received from bidders who are not certified as a small business shall be rejected.***

***(4) The cabinet shall award the small business set-aside contract to the lowest and best responsible small business bidder meeting specifications.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created an agency of state government to be known as the Office of Procurement Assistance, which shall constitute an office of the Finance and Administration Cabinet, and the office shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet. The executive director shall serve for a term of four (4) years and he may be reappointed for similar terms, and may be removed by the secretary of the Finance and Administration Cabinet, only for cause, after being given a copy of the charges against him and an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten (10) days notice. If the executive director is removed, the secretary of the Finance and Administration Cabinet shall file in the office of the Secretary of State a complete statement of all charges, and his findings therein, and a complete record of the proceedings. The executive director***

***being so removed may bring action in the proper court to determine whether or not he was legally removed in accordance with this section.***

***(2) The executive director shall serve as an ombudsman for businesses, especially small businesses, that want to obtain state procurement contracts. The duties of the executive director shall include but not be limited to the following:***

***(a) Providing a guide for businesses, especially small businesses, on the purchasing procedures and practices of governmental bodies, and taking steps to ensure the inclusion of businesses, especially small businesses, on the vendor lists of the cabinet;***

***(b) Informing businesses, especially small businesses, concerning state procurement opportunities;***

***(c) Assisting businesses, especially small businesses, in complying with the procedures for bidding on state contracts;***

***(d) Working with state and federal agencies and with private organizations in disseminating information on state procurement procedures and the opportunities for businesses, especially small businesses, to participate in state contracts;***

***(e) Assisting state agencies with the development of a comprehensive vendor catalog capable of providing information on sources of materials, supplies, equipment, or services to the state; and***

***(f) Making recommendations to governmental bodies for simplification of contract terms and conditions to increase state contracting opportunities for businesses, especially small businesses.***

***(3) The executive director shall have general supervision and direction over all the duties, functions and activities of the office and shall be responsible for carrying out the programs and policies of the office. The executive director shall have the authority to hire the necessary staff to perform the required duties, pursuant to the approval of the secretary of the Finance and Administration Cabinet.***

***(4) The executive director shall have access to all records generated by each governmental body, pursuant to KRS Chapters 45 and 45A.***

***(5) The executive director, upon approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations within ninety (90) days after the effective date of this Act, pursuant to KRS Chapter 13A, to implement the provisions of this Act.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***The cabinet shall develop, maintain and distribute a vendor catalog to each governmental body, with purchasing authority, of this state within one hundred twenty (120) days after the effective date of this Act, and shall revise the vendor catalog each fiscal year and distribute the revisions to each governmental body, with purchasing authority, within sixty (60) days after the end of each fiscal year.***

Section 5. KRS 45A.075 is amended to read as follows:

Except as otherwise authorized by law, all state contracts shall be awarded by:

(1) Competitive sealed bidding, pursuant to KRS 45A.080; or

(2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090; or

(3) Noncompetitive negotiation, pursuant to KRS 45A.095 this code; or

(4) Small purchase procedures, pursuant to KRS 45A.100***; or***

***(5) Small business set-aside competitive bidding, pursuant to Section 2 of this Act.***

Section 6. KRS 45A.100 is amended to read as follows:

(1) ***Small purchase*** [~~Procurements, not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction, five thousand dollars ($5,000) for equipment replacement parts purchased by the transportation cabinet, and one thousand dollars ($1,000) for all other purchases by state governmental bodies other than institutions of higher education, the department of parks, the transportation cabinet and the finance and administration cabinet, may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet.~~] procurements ***shall*** not [~~to~~] exceed an aggregate amount of ten thousand dollars ($10,000) for construction ***services for each governmental body,*** and [~~purchases of~~] five thousand dollars ($5,000) ***for all other categories of goods and services purchased*** by state institutions

of higher education, the Department of Parks, the Transportation Cabinet and the Finance and Administration Cabinet, ***and one thousand dollars ($1,000) for all other purchases, except construction services, by all other governmental bodies. Contracts exceeding the amount provided for in this section shall be awarded by competitive sealed bidding, pursuant to KRS 45A.080*** [~~may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet~~].

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

***(3) Each using agency shall obtain three (3) or more written price quotations from qualified sources of goods or services for all categories of small purchases above five hundred dollars ($500). At least one (1) of the required price quotations shall be obtained from a small business as defined in Section 1 of this Act.***

Section 7. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet ***shall*** [~~may~~] provide for prequalification of ***contractors, subcontractors, and*** suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified ***contractors, subcontractors, and*** suppliers. ***Every contractor, subcontractor, or supplier shall be prequalified before they are eligible to receive a state procurement contract*** [~~Prequalification shall not foreclose a written determination:~~

~~(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or~~

~~(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible~~].

Section 8. KRS 45A.170 is amended to read as follows:

(1) The Finance and Administration Cabinet shall have responsibility for [~~issuing and~~] maintaining [~~all~~] standard specifications for supplies, services, and construction required by the Commonwealth [~~Among its duties, it shall, to the greatest extent practicable:~~

~~(a) Prepare and issue standard specifications for supplies, services, and construction commonly required by the Commonwealth;~~

~~(b) Revise all standard specifications to conform to all technical and scientific advances pertaining to the supplies, services, and construction described in those specifications and to reflect changes in the Commonwealth's requirements; and~~

~~(c) Establish guidelines for drafting specifications~~].

(2) ***The Finance and Administration Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, including but not limited to the following:***

***(a) Guidelines for drafting specifications;***

***(b) Standard specifications for supplies, services and construction; and***

***(c) Where applicable, in lieu of, or in addition to, the Commonwealth's standard specifications, inclusion by reference of federal specifications of the General Services Administration, the armed services, or any other federal agency's specifications, or specifications drawn by a nationally recognized organization such as the American Society for Testing and Materials or the American National Standards Institute*** [~~All specifications shall be drafted so as to maximize, to the extent practicable, competition in fulfillment of the Commonwealth's requirements~~].

Section 9. KRS 45A.180 is amended to read as follows:

***(1)*** The secretary of the Finance and Administration Cabinet shall issue regulations providing for as many alternative methods of management of construction contracting as he may determine to be feasible, setting forth criteria to be used in determining which method of management of construction is to be used for a particular project, and granting to the purchasing officer, or the purchasing agency responsible for carrying out the construction project, the discretion to select the appropriate method of construction contracting for a particular project, provided, however, that the purchasing officer shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of management of construction contracting in each instance.

***(2) The cabinet shall review all capital construction projects exceeding two million dollars ($2,000,000) and shall determine if the use of a construction manager is an economically efficient alternative to using a general contractor.***

***(3) Beginning July 1, 1990, the cabinet shall make and deliver quarterly reports to the Legislative Research Commission within thirty (30) days after the end of each quarter, for review by the Capital Projects and Bond Oversight Committee. After the review by the Capital Projects and Bond Oversight Committee, the Legislative Research Commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter making up the substance of the quarterly report. The quarterly reports shall list each project reviewed during the preceding quarter and shall include the determination made concerning the selection of a construction manager or general contractor to manage each capital construction project exceeding two million dollars ($2,000,000).***

Section 10. KRS 45A.190 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty thousand dollars ($50,000)*** [~~twenty-five thousand dollars ($25,000)~~], the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) ***When a computer software or printing contract is awarded, a performance bond shall be furnished to the Commonwealth as obligee, with surety satisfactory to the purchasing agency, when required by the terms of an invitation for bids, or solicitation or request for proposals.***

***(3) No performance or payment bonds shall be required other than those specified in subsections (1) and (2) of this section, unless otherwise provided for by law*** [~~Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section~~].

Section 11. KRS 45.360 is amended to read as follows:

(1) The Finance and Administration Cabinet shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the Finance and Administration Cabinet, food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, scientific, or artistic services (contracts exempted by this provision shall be reviewed and approved in accordance with KRS 45.710 to 45.720);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the Finance and Administration Cabinet, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(3) The Finance and Administration Cabinet shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall promulgate administrative regulations to govern purchasing by or for all such agencies, subject to the approval of the secretary of the Finance and Administration Cabinet, and shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the cabinet or made under general regulations which the Finance and Administration Cabinet may prescribe.

(4) The Finance and Administration Cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The Finance and Administration Cabinet shall conduct periodic physical audits of inventories.

(5) The Finance and Administration Cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the Finance and Administration Cabinet prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The Finance and Administration Cabinet shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the ***Finance and Administration Cabinet*** [~~department~~], or the [~~department of~~] Transportation ***Cabinet*** for such requirements of that ***cabinet*** [~~department~~].

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of KRS Chapter 45A, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department, or the department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the Finance and Administration Cabinet in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make ***annual*** [~~periodic~~] summary reports***, in written form within sixty (60) days after the end of each fiscal year,*** of all transactions to [~~the secretary of the Finance and Administration Cabinet,~~] the Governor, and the ***Legislative Research Commission for review by the appropriate committee of jurisdiction*** [~~general assembly~~]. The Finance and Administration Cabinet shall also ***provide written reports***

***on*** [~~report~~] trends in costs and prices, including savings realized through improved practices, to the above authorities. ***The reports shall include but not be limited to:***

***(a) The total number of purchasing transactions made and the total dollar volume of those purchases;***

***(b) The total number of bid invitations processed and:***

***1. Of the total bid invitations processed, the number of purchase contracts awarded and the total dollar volume of those contracts;***

***2. Of the total bid invitations processed, the number of invitations to bid sent to handicapped business enterprises, minority business enterprises, small business enterprises and woman business enterprises;***

***3. The number of responses to bid invitations received from handicapped business enterprises, minority business enterprises, small business enterprises and woman business enterprises, and the number of contracts and the dollar volume of contracts awarded to each of these types of business enterprises.***

(11) For capital construction projects, subject to the provisions of KRS Chapter 45A, the bidding may be on a total design-bid basis; a package system commonly referred to as "turnkey"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the secretary of the Finance and Administration Cabinet offers the lowest real cost to the taxpayer. Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The Finance and Administration Cabinet shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years recovery basis and shall take into consideration the projected cost of fuel. The energy cabinet shall conduct thorough economic feasibility analyses on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and ***shall*** [~~must~~] issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. Such economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and ***those*** [~~one(s)~~] that would utilize any fuel other than coal. For such analyses, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 12. KRS 45.453 is amended to read as follows:

***(1)*** All bills shall be paid within thirty (30) working days of receipt of a vendor's invoice except when payment is delayed because the purchasing agency has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor's subcontractor.

***(2) Vendors shall pay their subcontractors or suppliers within ten (10) working days after the vendor's receipt of approved payment, due to him by the state, as required by contract for services performed or goods delivered by the vendor's subcontractors or suppliers.***

***(3) An interest penalty of one percent (1%) shall be paid by the vendor to his subcontractors or suppliers for services performed or goods delivered as required by contract on any amount approved by the state and unpaid by the vendor, for each month or fraction thereof after the ten (10) working days which followed the vendor's receipt of approved state payment which in part includes payment due the vendor's subcontractors or suppliers for services performed or supplies delivered as required by contract. This requirement shall be included in all contracts for goods, services, equipment and construction.***

Section 13. The following KRS sections are repealed:

45.470 Definitions.

45.480 Standards, classifications, and definitions fixed by regulations.

45.490 Procedures, qualifications for bidding.

45.500 Rejection of bids.

45.510 Title.

57.071 Bond of bidders — condition.

Section 14. Whereas, it is desirable to start the programs effected by this Act with the fiscal year, an emergency is declared to exist, and upon its passage and approval this Act shall become effective July 1, 1990.

The Committee Substitute to **HB 906** is as follows:

**HB 906**, AN ACT relating to state purchasing and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 45A.030 is amended to read as follows:

The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.

(1) "Business" shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

***(2) "Cabinet" shall mean the Finance and Administration Cabinet.***

***(3)***[~~(2)~~] "Change order" shall mean a written order signed by the purchasing officer, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor.

***(4)***[~~(3)~~] "Chief purchasing officer" shall mean the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177 and 180.

***(5)***[~~(4)~~] "Construction" shall mean the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property.

***(6)***[~~(5)~~] "Contract" shall mean all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It shall include awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It also includes supplemental agreements with respect to any of the foregoing.

***(7)***[~~(6)~~] "Contract modification" shall mean any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It shall include bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

***(8)***[~~(7)~~] "Contractor" shall mean any person having ***or seeking*** a ***state procurement*** contract ***from*** [~~with~~] a governmental body.

***(9) "Controlled" or "control" shall mean the exclusive or ultimate and sole control of the small business, including, but not limited to, capital investment and all other financial matters; property; acquisitions; contract negotiations; legal matters; selection and comprehensive hiring officers, directors and employees, operating responsibilities; cost control matters; income and dividend matters; financial transactions; and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular small business and control shall not include simple majority or absentee ownership.***

***(10)***[~~(8)~~] "Data" shall mean recorded information, regardless of form or characteristic.

***(11)***[~~(9)~~] "Designee" shall mean a duly authorized representative of a person holding a superior position.

***(12)***[~~(10)~~] "Employee" shall mean an individual drawing a salary from a governmental body, whether elected or not, and any non-salaried individual performing personal services for any governmental body.

***(13)***[~~(11)~~] "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, ***state university,*** or other establishment of the executive, [~~or~~] legislative ***or judicial*** branch of the state government.

***(14) "Handicapped business enterprise," shall mean a small business which is at least fifty-one percent (51%) controlled by one (1) or more resident citizens of the United States who are permanently handicapped persons, as determined by a notarized statement from a state or federal agency authorized by a state or federal law to determine that a person is permanently handicapped.***

***(15)***[~~(12)~~] "May" shall mean permissive.

***(16) "Minority business enterprise," shall mean a small business which is at least fifty-one percent (51%) controlled by one (1) or more ethnic minority persons, of either sex, who are resident citizens of the United States and who are members of one of the following ethnic minority groups:***

***(a) Black Americans: all persons easily identified as having origins in any of the black racial groups of Africa;***

***(b) Hispanic Americans: all persons easily identified as persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin;***

***(c) Native Americans, including American Indians, Alaskan Natives, Eskimos, Aleuts or Native Hawaiians: all persons easily identified as having origins in any of the original peoples of North America or Hawaii, or, in the case of American Indians, who maintain cultural identification through tribal affiliation recognized by the Bureau of Indian Affairs, United States Department of the Interior;***

***(d) Asian and Pacific Islander Americans: all persons easily identifiable as having origins in any of the original peoples of the Middle East, the Indian Subcontinent, Southeast Asia, East Asia, and Islands in the Pacific Ocean;***

***(e) It shall be the duty of the applicant to prove by a preponderance of the evidence that he is within the protected class.***

***(17)***[~~(13)~~] "Negotiation" shall mean contracting by either the method set forth in KRS 45A.085, 45A.090 or 45A.095.

***(18) "Non-minority business enterprise," or NBE, shall mean a small business which is at least fifty-one percent (51%) controlled by one (1) or more nonminority males who are resident citizens of the United States.***

***(19) "Ombudsman" shall mean an office or individual within the cabinet whose responsibility includes providing necessary information and assistance, within reason, to a small business or any other business in dealing with the requirements of KRS Chapters 45 and 45A and other relevant statutes and administrative regulations.***

***(20)***[~~(14)~~] "Person" shall mean any business, individual, organization or group of individuals.

***(21)***[~~(15)~~] "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

***(22)***[~~(16)~~] "Purchase request" or "purchase requisition" shall mean that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025.

***(23)***[~~(17)~~] "Purchasing agency" shall mean any governmental body which is authorized by this code or its implementing regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer.

***(24)***[~~(18)~~] "Purchasing officer" shall mean any person authorized by a governmental body in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term shall also include an authorized representative acting within the limits of authority.

***(25) "Secretary" shall mean the secretary of the Finance and Administration Cabinet.***

***(26)***[~~(19)~~] "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services.

*(27)*[~~(20)~~] "Shall" shall mean imperative.

***(28) "Small business" shall mean a business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity is not affiliated or subsidiary of a business dominant in its field of operation, and has forty-nine (49) or fewer full-time employees or an equivalent number of part-time or seasonal employees and no more than the equivalent of two million dollars ($2,000,000) in annual gross revenues in each of the two preceding fiscal years and further qualifies as a non-minority, minority, woman or handicapped business enterprise.***

***(29) "Small business set-aside competitive bidding" shall mean a contract or purchase request for which bids are to be invited and accepted only from a small business.***

***(30) "Small business vendor catalog" shall mean a compilation of small business vendor lists, including but not limited to those which are maintained by the Finance and Administration Cabinet and the Transportation Cabinet. The small business vendor catalog shall include but not be limited to the following:***

***(a) Basic information illustrating the small business vendor's business name, address, phone number, and the type of commodities or services provided by the vendor;***

***(b) A listing of all small business vendors who have received and completed small purchase requests, pursuant to KRS 45A.100; and***

***(c) A categorization of small business types according to the type of commodity or service.***

***(31) "Subcontractor" or "supplier" shall mean a business or small business that maintains or wants to enter into a contractual relationship with a contractor for the purpose of the contractor fulfilling his contract obligation to the Commonwealth.***

*(32)*[~~(21)~~] "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

*(33)*[~~(22)~~] "Supplies" shall mean all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land.

*(34)*[~~(23)~~] "Using agency" shall mean any governmental body of the state which utilizes any supplies, services, or construction purchased under this code.

***(35) "Woman business enterprise," shall mean a small business which is at least fifty-one percent (51%) controlled by one (1) or more nonminority females who are resident citizens of the United States.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***(1) The cabinet may designate any contract for goods, equipment, construction or services as a small business set-aside competitive bidding. A small business set-aside competitive bidding designation shall be made prior to the advertisement for bids, and the advertisement shall indicate this invitation as a small business set-aside competitive bidding.***

***(2) If the cabinet chooses to designate a small business set-aside competitive bidding, it shall send invitations for bids to every small business on the vendor list which is known to provide the particular type of goods, equipment, construction or services required by the specifications in the invitations for bids or requests for proposals.***

***(3) Bids that are received from bidders who are not certified as a small business shall be rejected.***

***(4) The cabinet shall award the small business set-aside competitive bidding contract to the lowest and best responsible small business bidder meeting specifications.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established within the Finance and Administration Cabinet an Office of Equal Employment Opportunity Contract Compliance which shall be headed by an executive director appointed pursuant to KRS 12.050. The office shall implement the provisions of the Kentucky Equal Employment Opportunity Act of 1978, and establish procedures to insure compliance with its provisions.***

***(2) The Office of Equal Employment Opportunity Contract Compliance shall utilize all available sources to prepare a detailed list of minority contractors throughout the Commonwealth. The office shall notify***

***all such contractors of potential public contracts, and shall assist them in the preparation and submission of bids .***

***(3) The office shall pursue a policy to insure that all contractors, subcontractors, and contracting agencies with contracts covered by KRS 45.560 to 45.640 shall include in their work force proportionate numbers of minorities as defined in KRS 45.620(3) reflective of the drawing area for which the contract is let.***

***(4) There is hereby created a Procurement Assistance Section within the Office of Equal Employment Opportunity Contract Compliance. The section shall be headed by an assistant director who shall be appointed to the classified service as provided in KRS 18A.010. The assistant director shall be a graduate of an accredited college or university and have at least three (3) years experience in state purchasing or in lieu of a college or university degree the assistant director may have an equivalent number of years of experience in state purchasing.***

***(5) The assistant director of the Procurement Assistance Section shall serve as an ombudsman for businesses, especially small businesses, that want to obtain state procurement contracts. The duties of the assistant director shall include but not be limited to the following:***

***(a) Providing a guide for businesses, especially small businesses, on the purchasing procedures and practices of governmental bodies, and taking steps to ensure the inclusion of businesses, especially small businesses, on the vendor lists of the cabinet;***

***(b) Informing businesses, especially small businesses, concerning state procurement opportunities;***

***(c) Assisting businesses, especially small businesses, in complying with the procedures for bidding on state contracts;***

***(d) Working with state and federal agencies and with private organizations in disseminating information on state procurement procedures and the opportunities for businesses, especially small businesses, to participate in state contracts;***

***(e) Assisting state agencies with the development of a comprehensive small business vendor catalog capable of providing information on sources of materials, supplies, equipment, or services to the state; and***

***(f) Making recommendations to governmental bodies for simplification of contract terms and conditions to increase state contracting opportunities for businesses, especially small businesses.***

***(6) The assistant director shall have general supervision and direction over all the duties, functions and activities of the Procurement Assistance Section and shall be responsible for carrying out the programs and policies of the branch.***

***(7) The assistant director of the Procurement Assistance Section shall have access to all records generated by each governmental body, pursuant to KRS Chapters 45 and 45A.***

***(8) The executive director of the Office of Equal Employment Opportunity Contract Compliance, upon approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations within ninety (90) days after the effective date of this Act, pursuant to KRS Chapter 13A, to implement the provisions of this section.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***The cabinet shall develop, maintain and distribute a small business vendor catalog to each governmental body, with purchasing authority, of this state within two hundred forty (240) days after the effective date of this Act, and shall revise the small business vendor catalog each fiscal year and distribute the revisions to each governmental body, with purchasing authority, within sixty (60) days after the end of each fiscal year.***

Section 5. KRS 45A.075 is amended to read as follows:

Except as otherwise authorized by law, all state contracts shall be awarded by:

(1) Competitive sealed bidding, pursuant to KRS 45A.080; or

(2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090; or

(3) Noncompetitive negotiation, pursuant to KRS 45A.095 this code; or

(4) Small purchase procedures, pursuant to KRS 45A.100***; or***

***(5) Small business set-aside competitive bidding, pursuant to Section 2 of this Act.***

Section 6. KRS 45A.100 is amended to read as follows:

(1) ***Small purchase*** [~~Procurements, not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction, five thousand dollars ($5,000) for equipment replacement parts purchased by the transportation cabinet, and one thousand dollars ($1,000) for all other purchases by state governmental bodies other than institutions of higher education, the department of parks, the transportation cabinet and the finance and administration cabinet, may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet.~~] procurements ***shall*** not [~~to~~] exceed an aggregate amount of ten thousand dollars ($10,000) for construction ***services for each governmental body,*** and [~~purchases of~~] five thousand dollars ($5,000) ***for all other categories of goods and services purchased*** by state institutions of higher education, the Department of Parks, the Transportation Cabinet and the Finance and Administration Cabinet***, and one thousand dollars ($1,000) for all other purchases, except construction services, by all other governmental bodies. Contracts exceeding the amount provided for in this section shall be awarded by competitive sealed bidding, pursuant to KRS 45A.080 or by small business set-aside competitive bidding pursuant to Section 2 of this Act*** [~~may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet~~].

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

***(3) Each using agency shall obtain three (3) or more written or telephone price quotations from qualified sources of goods or services for all categories of small purchases above five hundred dollars ($500). When a using agency obtains a telephone quote it shall be confirmed with a written quote. At least one (1) of the required price quotations shall be obtained from a small business as defined in Section 1 of this Act.***

Section 7. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet ***shall*** [~~may~~] provide for prequalification of ***contractors, subcontractors, and*** suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified ***contractors, subcontractors, and*** suppliers. ***Every contractor, subcontractor, or supplier shall be prequalified before they are eligible to receive a state procurement contract*** [~~Prequalification shall not foreclose a written determination:~~

~~(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or~~

~~(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible~~].

Section 8. KRS 45A.170 is amended to read as follows:

(1) The Finance and Administration Cabinet shall have responsibility for [~~issuing and~~] maintaining [~~all~~] standard specifications for supplies, services, and construction required by the Commonwealth [~~Among its duties, it shall, to the greatest extent practicable:~~

~~(a) Prepare and issue standard specifications for supplies, services, and construction commonly required by the Commonwealth;~~

~~(b) Revise all standard specifications to conform to all technical and scientific advances pertaining to the supplies, services, and construction described in those specifications and to reflect changes in the Commonwealth's requirements; and~~

~~(c) Establish guidelines for drafting specifications~~].

(2) ***The Finance and Administration Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, including but not limited to the following:***

***(a) Guidelines for drafting specifications;***

***(b) Standard specifications for supplies, services and construction; and***

***(c) Where applicable, in lieu of, or in addition to, the Commonwealth's standard specifications, inclusion by reference of federal specifications of the General Services Administration, the armed services, or any***

***other federal agency's specifications, or specifications drawn by a nationally recognized organization such as the American Society for Testing and Materials or the American National Standards Institute*** [~~All specifications shall be drafted so as to maximize, to the extent practicable, competition in fulfillment of the Commonwealth's requirements~~].

Section 9. KRS 45A.180 is amended to read as follows:

***(1)*** The secretary of the Finance and Administration Cabinet shall issue regulations providing for as many alternative methods of management of construction contracting as he may determine to be feasible, setting forth criteria to be used in determining which method of management of construction is to be used for a particular project, and granting to the purchasing officer, or the purchasing agency responsible for carrying out the construction project, the discretion to select the appropriate method of construction contracting for a particular project, provided, however, that the purchasing officer shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of management of construction contracting in each instance.

***(2) The cabinet shall review all capital construction projects exceeding two million dollars ($2,000,000) and shall determine if the use of a construction manager is an economically efficient alternative to using a general contractor.***

***(3) Beginning July 1, 1990, the cabinet shall make and deliver semiannual reports to the Legislative Research Commission within thirty (30) days after the end of each semiannual period, for review by the Capital Projects and Bond Oversight Committee. After the review by the Capital Projects and Bond Oversight Committee, the Legislative Research Commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter making up the substance of the semiannual report. The semiannual reports shall list each project reviewed during the preceding biannual period and shall include the determination made concerning the selection of a construction manager or general contractor to manage each capital construction project exceeding two million dollars ($2,000,000).***

Section 10. KRS 45A.190 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty thousand dollars ($50,000)*** [~~twenty-five thousand dollars ($25,000)~~], the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) ***When a computer software or printing contract is awarded, a performance bond shall be furnished to the Commonwealth as obligee, with surety satisfactory to the purchasing agency, when required by the terms of an invitation for bids, or solicitation or request for proposals.***

***(3) No performance or payment bonds shall be required other than those specified in subsections (1) and (2) of this section, unless otherwise provided for by law or administrative regulation pursuant to KRS Chapter 13A*** [~~Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section~~].

Section 11. KRS 45.360 is amended to read as follows:

(1) The Finance and Administration Cabinet shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the Finance and Administration Cabinet, food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, scientific, or artistic services (contracts exempted by this provision shall be reviewed and approved in accordance with KRS 45.710 to 45.720);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the Finance and Administration Cabinet, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(3) The Finance and Administration Cabinet shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall promulgate administrative regulations to govern purchasing by or for all such agencies, subject to the approval of the secretary of the Finance and Administration Cabinet, and shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the cabinet or made under general regulations which the Finance and Administration Cabinet may prescribe.

(4) The Finance and Administration Cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The Finance and Administration Cabinet shall conduct periodic physical audits of inventories.

(5) The Finance and Administration Cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the Finance and Administration Cabinet prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The Finance and Administration Cabinet shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the ***Finance and Administration Cabinet*** [~~department~~], or the [~~department of~~] Transportation ***Cabinet*** for such requirements of that ***cabinet*** [~~department~~].

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of KRS Chapter 45A, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department, or the department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the

Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the Finance and Administration Cabinet in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make ***annual*** [~~periodic~~] summary reports***, in written form within sixty (60) days after the end of each fiscal year,*** of all transactions to [~~the secretary of the Finance and Administration Cabinet,~~] the Governor, and the ***Legislative Research Commission for review by the appropriate committee of jurisdiction*** [~~general assembly~~]. The Finance and Administration Cabinet shall also ***provide written reports on*** [~~report~~] trends in costs and prices, including savings realized through improved practices, to the above authorities. ***The reports shall include but not be limited to:***

***(a) The total number of purchasing transactions made and the total dollar volume of those purchases;***

***(b) The total number of bid invitations processed and:***

***1. Of the total bid invitations processed, the number of purchase contracts awarded and the total dollar volume of those contracts;***

***2. Of the total bid invitations processed, the number of invitations to bid sent to handicapped business enterprises, minority business enterprises, nonminority business enterprises and woman business enterprises;***

***3. The number of responses to bid invitations received from handicapped business enterprises, minority business enterprises, nonminority business enterprises and woman business enterprises, and the number of contracts and the dollar volume of contracts awarded to each of these types of business enterprises.***

(11) For capital construction projects, subject to the provisions of KRS Chapter 45A, the bidding may be on a total design-bid basis; a package system commonly referred to as "turnkey"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the secretary of the Finance and Administration Cabinet offers the lowest real cost to the taxpayer. Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The Finance and Administration Cabinet shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years recovery basis and shall take into consideration the projected cost of fuel. The energy cabinet shall conduct thorough economic feasibility analyses on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and ***shall*** [~~must~~] issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. Such economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and ***those*** [~~one(s)~~] that would utilize any fuel other than coal. For such analyses, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 12. KRS 45.453 is amended to read as follows:

***(1)*** All bills shall be paid within thirty (30) working days of receipt of a vendor's invoice except when payment is delayed because the purchasing agency has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor's subcontractor.

***(2) Vendors shall pay their subcontractors or suppliers within ten (10) working days after the vendor's receipt of approved payment, due to him by the state, as required by contract for services performed or goods delivered by the vendor's subcontractors or suppliers.***

***(3) An interest penalty of one percent (1%) shall be paid by the vendor to his subcontractors or suppliers for services performed or goods delivered as required by contract on any amount approved by the state and unpaid by the vendor, for each month or fraction thereof after the ten (10) working days which followed the vendor's receipt of approved state payment which in part includes payment due the vendor's subcontractors***

or suppliers for services performed or supplies delivered as required by contract. A notification of this requirement shall be included in all contracts for goods, services, equipment and construction. The purchasing agency shall not mediate any prompt payment disputes between a subcontractor or supplier and the vendor.

Section 13. The following KRS sections are repealed:

45.470 Definitions.

45.480 Standards, classifications, and definitions fixed by regulations.

45.490 Procedures, qualifications for bidding.

45.500 Rejection of bids.

45.510 Title.

57.071 Bond of bidders — condition.

Section 14. Whereas, it is desirable to start the programs effected by this Act with the fiscal year, an emergency is declared to exist, and upon its passage and approval this Act shall become effective July 1, 1990.

The Committee Amendment No. 1 to the Committee Substitute to **HB 906** is as follows:

Amend printed copy of **HB 906/HCS** on page 6, line 5, after "***States***" and before the period, by inserting the following: "***, including but not limited to small businesses within counties of this Commonwealth with a population of fifty thousand (50,000) or less, and with a poverty rate above fifteen percent (15%)***".

**SB 226**, AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement system created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employees of the General Assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department, notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers and employees of the General Assembly and every regular full-time appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employee in such department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, [~~(~~]except that for members, officers and employees of the General Assembly this date shall be January 1, 1960,[~~)~~] for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer and employee of the General Assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employee of the General Assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent such tips are reported for income tax purposes and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assulary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except for members of the General Assembly, the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; nineteen hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member; provided, however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month, including all positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(8), except the employee shall pay a single payment of fifty percent (50%) of the total cost of such service with no cost to the employer, and such payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust or trustee; and

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

***(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period.***

Section 2. KRS 61.565 is amended to read as follows:

(1) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, and each employer participating in the County Employees Retirement System as provided for in KRS 78.520 to 78.852 and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.515 to 61.705 shall contribute annually to the respective retirement system an amount equal to the percent as computed under subsection (2) of this section of the creditable compensation of its employees, including the assumed creditable compensation of fire fighters employed by a district created pursuant to KRS 75.010, to be known as the "normal contributions," and an additional amount [~~equal to one percent (1%) of unfunded past service liabilities, plus annual interest accruing thereon at the actuarially assumed rate of interest adopted by the board~~] to be known as the "past service contribution" ***which shall be computed by amortizing the total unfunded past service liability over a period of thirty (30) years using the level-percentage-of-payroll method. This method shall be used beginning with the 1990 actuarial valuation. The initial thirty (30) year amortization period shall begin with the 1990 valuation. Any significant increase in past service liability due to benefit improvements after the 1990 valuation shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.***[~~"~~]

(2) The normal contribution rate shall be determined by the entry age normal cost funding method. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium. The board may amend contribution rates as of July 1 of the second year of a biennium, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.

(4) The board shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.

Section 3. KRS 61.691 is amended to read as follows:

(1) [~~Effective August 1, 1988 and July 1, 1989, a recipient of a retirement allowance under KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by four and one-half percent (4 1/2%). Thereafter,~~] The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.

(2) ***Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 who's retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been drawn. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.***

***(3) Effective August 1, 1990, and July 1, 1991, a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by two and nine-tenths percent (2.9%).***

***(4)*** A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

The Committee Amendment No. 1 to **SB 226** is as follows:

Amend printed copy of GA Copy of **SB 226** on page 12, line 18, by adding thereafter the following:

"Section 4. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or legislators' retirement plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by

the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky racing commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. ***An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the system actuary.*** Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (7) to (11), (13) and (14) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board, and the delayed contribution payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months current service credit in one (1) of the state administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) Any employee participating in one (1) of the state administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958 and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employees of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1988, any employee participating in one (1) of the state administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employee participating in one (1) of the state administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employee participating in one (1) of the state administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705 or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.".

The Committee Amendment No. 2 to **SB 226** is as follows:

Amend printed copy of **SB 226/GA** Copy on page 12, after line 18, by adding the following:

"Section 4. KRS 61.645 is amended to read as follows:

(1) The county employes retirement system, Kentucky employes retirement system and state police retirement system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members and retired members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members and retired members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members and retired members of the Kentucky employes retirement system; and

(e) Three (3) trustees, appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee, it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employes as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c). Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. ***Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.*** [~~The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.~~]

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred twenty (120) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky retirement systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky retirement systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky retirement systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky retirement systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

Section 5. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky retirement systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky employes retirement system. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705, except that members of the board, when acting for the county employes retirement system, shall be paid a per diem of sixty dollars ($60), plus actual expenses.

(2) Expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. ***Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48***. [~~The expenses incurred by the board payable out of the retirement allowance account in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.~~] Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources."

The Committee Amendment No. 3 to **SB 226** is as follows:

Amend printed copy of GA Copy of **SB 226** on page 12, line 18, by adding thereafter the following:

"Section 4. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section; and

(b) The term "state employe" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employe may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the state board for elementary and secondary education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the

Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

(2) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employes. All state employes for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employes, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(5) If an employe moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage and health maintenance organization coverage under the provisions of this section.

(9) ***Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.***

***(10)*** The health insurance contract or contracts for state employes shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984 shall be awarded for the period between October 1, 1984 and June 30, 1986.

Section 5. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky retirement systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky employes retirement system, county employes retirement system and state police retirement system. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employes group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employes having the same medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the state police retirement system as provided for in KRS 16.510 to 16.652, and each employer participating in the county employes retirement system as provided in KRS 78.510 to 78.852 and each employer participating in the Kentucky employes retirement system as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky retirement systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a state police retirement system member or a hazardous position employe, as defined in KRS 61.592, who becomes disabled in line of duty, as defined in KRS 16.505(20), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a state police retirement system member or a hazardous position employe as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(20), shall have the premium for the beneficiary and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems except service added to determine disability benefits shall not be counted as "months of service."

(4) Group rates under the hospital and medical insurance plan shall be made available to the spouse, [~~and~~] dependents ***and disabled children, regardless of the disabled child's age,*** of a recipient who was a former member of one (1) or more of the three (3) retirement systems, and to the beneficiary where ***the*** [~~such~~] beneficiary is receiving a retirement allowance, ***if*** [~~provided~~] the premium for the spouse, dependent, ***disabled child*** or beneficiary hospital and medical insurance is paid by payroll deduction from ***the*** [~~such~~] retirement allowance or by another method. ***A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.*** The other provisions of this section notwithstanding, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient who was

a member of the general assembly and is receiving a retirement allowance based on general assembly service, of the Kentucky employes retirement system and determined to be in a hazardous position, of the county employes retirement system, and determined to be in a hazardous position or of the state police retirement system, or the beneficiary of ***the*** [~~such a~~] member, as the fund pays or paid for the member.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

Section 6. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to members retired for service or disability. Coverage may be extended to the spouses and minor children of said retired members, provided the member began participating in the teachers' retirement system prior to July 1, 1978. Coverage may also be extended to spouses and to minor children of members in active contributing status who are deceased prior to retirement if the surviving spouse is eligible to receive the member's retirement benefit as provided in KRS 161.525 and elects to do so. The board of trustees may offer, on a cost basis, coverage of spouses not eligible for regular coverage.

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the teachers' retirement system or of combined service in the Kentucky employes retirement system, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2), to qualify for such coverage. ***The board of trustees shall offer coverage of the disabled child of a retired member regardless of the disabled child's age if the retired member pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.***

(3) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the insurance program. Such charges may be flat standard amounts or based upon the amount of the annuity allowance payments or a combination of these provisions. The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund and from the premium charges received from the annuitants and the spouses. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis or a combination of these provisions.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 7. 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the department of personnel may establish a state employe benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the finance and administration cabinet as provided in KRS 18A.225(2).

(2) Benefits provided under this section include, but are not limited to hospitalization, surgical care, and major medical care for state employes and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any amount due over that contributed by the state or department, board or agency for coverage shall be paid by the employe.

(4) No contribution by the state or department, board or agency shall constitute compensation to an insured employe for purposes of any statute fixing or limiting the compensation of such employe. Any expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the department of personnel may approve.

***(6) Group rates under the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.***".

The Committee Amendment No. 4 to **SB 226** is as follows:

Amend printed copy of GA Copy of **SB 226** on page 12, line 18, by adding thereafter the following:

"Section 4. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the district court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with the laws, administrative regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in ***obligations*** [~~obligation~~] calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. ***Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of the Kentucky Teachers' Retirement System in developing its programs and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount invested, and the percentage of applications which resulted in investments.***".

The Committee Amendment No. 5to **SB 226** is as follows:

Amend printed copy of GA Copy SB 226 on page 12, line 18, by adding thereafter the following:

"Section 4. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power [~~to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the district court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power~~] to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. ***The board may employ investment counselors to manage investments and to conduct market transactions, but effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of any of the funds created by KRS 16.510, 61.515, and 78.520.*** The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) ***By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and***

***(d)*** In accordance with the laws, administrative regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225. ***The board, in order to ensure timely market transactions, shall establish, by administrative regulations, investment guidelines and may permit investment counselors and retirement system staff to execute purchases and sales of investment instruments within those guidelines without prior board approval*** [~~and every change in registration, by reason of sale or assignmentof such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees~~].

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 5. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky retirement systems" or nominee name as provided by KRS 287.225, and ***the board, in order to ensure timely market transactions, shall establish investment guidelines by administrative regulations and may permit investment counselors and retirement system staff to execute purchases and sales of investment instruments within those guidelines without prior board approval*** [~~every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees~~].

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 6. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky retirement systems of the Commonwealth of Kentucky or nominee name as provided by KRS 287.225. ***The board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit investment counselors and retirement system staff to execute purchases and sales of investment instruments within those guidelines without prior board approval*** [~~and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and general manager of the board of trustees~~].

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 7. KRS 21.450 is amended to read as follows:

(1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through contract with a reputable life insurance company authorized to do business in this state, or through investment and reinvestment of funds in securities which, at the time of making the investment, are by law permitted for the investment of funds by fiduciaries in this state, or through a combination of such methods. To the extent that funding is provided through insurance contract, no contributions, payments or premiums shall be subject to any tax on insurance premiums or annuity considerations. The investment committee for the judicial retirement fund shall be trustee of any and all funds contributed or appropriated to the retirement system, and shall have sole authority to make insurance contracts or investments.

(2) The board members or any investment adviser shall discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; [~~and~~]

(c) ***By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and***

***(d)*** In accordance with the laws, regulations and other instruments governing the funds.

Section 8. KRS 6.525 is amended to read as follows:

The legislators' retirement plan shall be governed by ***KRS 21.560 and by*** provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, ***21.450,*** 21.460, 21.470, 21.480, 21.525 and 61.552 for the judicial retirement plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the legislators' retirement plan may combine his service credit with his service credit in the teachers' retirement system, Kentucky employes' retirement system, county employes' retirement system and state police retirement system at the time of his retirement, according to the procedure of KRS 61.680 (2)(a). A member of the legislators' retirement plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above, to the judicial retirement plan shall also be read as a reference to the legislators' retirement plan, and any reference to the legislators' retirement plan shall also be read as a reference to the judicial retirement plan.".

The Committee Amendment No. 6 to **SB 226** is as follows:

Amend printed copy of GA Copy of **SB 226** on page 12, line 18, by adding thereafter the following:

"Section 4. KRS 61.670 is amended to read as follows:

(1) As soon as practicable after its organization, the board shall adopt such actuarial tables as are necessary for the administration of the system and for the annual determination of assets and liabilities of the system. The board shall cause an actuarial valuation to be made annually. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience. ***For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this spread between investment and salary assumptions shall be reviewed and adjusted annually, based upon the most recent five (5) year experience of the system.*** At least once in each ten (10) year period the board shall cause an actuarial investigation to be made of all the experience under the retirement system. Pursuant to such investigation the board shall, from time to time, revise the actuarial tables previously adopted by the board and shall thereupon revise the bases of the rates of contributions required under KRS 61.510 to 61.692 and 16.505 to 16.652 and 78.510 to 78.852. All such investigations and valuations ***shall*** [~~must~~] be certified to the board by a fellow of the Society of Actuaries.

(2) A copy of each ten (10) year actuarial investigation and annual valuation shall be forwarded to the legislative research commission. The annual valuation shall be forwarded no later than ten (10) days after receipt by the board.

Section 5. KRS 21.440 is amended to read as follows:

(1) The investment committee for the judicial retirement fund shall at least once in every two (2) year period procure an actuarial valuation of the judicial retirement fund. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the fund and represent the actuary's best estimate of anticipated experience. ***For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this spread between investment and salary assumptions shall be reviewed and adjusted annually, based upon the most recent five (5) year experience of the fund.*** A copy of the valuation shall be forwarded to the legislative research commission within ten (10) days of receipt by the committee.

(2) The board of trustees of the judicial form retirement system shall annually procure an audit of the system and each of the funds therein. The audit shall be conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. The board shall make copies of the audit required by this section available for examination by any member or beneficiary in the office of the manager of the system and in such other places as may be necessary to make the audit available to all members and beneficiaries. A copy of the audit shall be sent to the legislative research commission within ten (10) days of receipt by the committee.

Section 6. KRS 6.525 is amended to read as follows:

The legislators' retirement plan shall be governed by ***KRS 21.560 and by*** provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, ***21.450,*** 21.460, 21.470, 21.480, 21.525 and 61.552 for the judicial retirement plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the legislators' retirement plan may combine his service credit with his service credit in the teachers' retirement system, Kentucky employes' retirement system, county employes' retirement system and state police retirement system at the time of his retirement, according to the procedure of KRS 61.680 (2)(a). A member of the legislators' retirement plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above, to the judicial retirement plan shall also be read as a reference to the legislators' retirement plan, and any reference to the legislators' retirement plan shall also be read as a reference to the judicial retirement plan.".

**HB 361,** AN ACT relating to open meetings.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.805 is amended to read as follows:

As used in KRS 61.805 to 61.850, unless the context otherwise requires:

(1) "Meeting" means all gatherings of every kind, regardless of where the meeting is held, and whether regular or special and information or casual gatherings held in anticipation of or in conjunction with a regular or special meetings;

(2) "Public agency" means ***every state or local board, commission and authority; every state or local legislative board, commission and committee, including any advisory committee; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency thereof, including inter-agency bodies; any corporation or other entity which is controlled by a public agency or those functions of a private corporation or entity that are public in nature; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five (25%) of its funds from state or local authority*** [~~any state legislative, executive, administrative or advisory board, commission, committee, policy making board of an institution of education or other state agency which is created by or pursuant to statute or executive order (other than judicial or quasi-judicial bodies); any county, city, school district, special purpose district boards, public commissions, councils, offices or other municipal corporation or political subdivision of the state; any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency which is created by or pursuant to statute, executive order, local ordinance or resolution or other legislative act, including but not limited to planning commissions, library or park boards and other boards, commissions and agencies~~];

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body; ***and***

***(4) "Member" means a member of the governing body of the public agency and does not include employees or licensees of the agency.***

Section 2. KRS 61.810 is amended to read as follows:

All meetings of a quorum of the members of any public agency, ***and any meetings of less than a quorum of the members which are scheduled for the purpose of avoiding the requirements of this section,*** at which any public business is discussed or at which any action is taken by ***the*** [~~such~~] agency, ***shall*** [~~are declared to~~] be public meetings, open to the public at all times, except for the following:

(1) [~~Deliberations for decisions of the Kentucky Parole Board.~~

~~(2)~~] Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.

***(2)***[~~(3)~~] Discussions of ***initiation of litigation by the public agency or ongoing litigation initiated by a public agency which is either pending or has been threatened specifically in writing*** [~~proposed or pending litigation against or on behalf of the public agency~~].

***(3)***[~~(4)~~] Grand and petit jury sessions.

***(4)***[~~(5)~~] Collective bargaining negotiations between public employers and their employees or their representatives.

***(5)***[~~(6)~~] Discussions or hearings which might lead to the appointment, discipline or dismissal of an individual employee, member or student without restricting that employee's, member's or student's right to a public hearing if requested.[~~, provided that~~] This exception [~~is designed to protect the reputation of individual persons and~~] shall not be interpreted to permit discussion of general personnel matters in secret. ***The exception shall not apply if the affected employee, member or student requests that the discussion or hearings be open to the public.***

***(6)***[~~(7)~~] Meetings between public agencies and industrial prospects.

***(7)***[~~(8)~~] State cabinet meetings and executive cabinet meetings.

***(8)***[~~(9)~~] Committees of the General Assembly other than standing committees.

***(9) Deliberations of quasi-judicial bodies regarding individual adjudications, at which neither the person involved, its representatives nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning or zoning commissions.***

(10) Meetings which federal or state law specifically require to be conducted in privacy.

(11) Meetings which the Constitution provides shall be held in secret.

Section 3. KRS 61.815 is amended to read as follows:

Except those public agencies excluded under KRS 61.810***(2), (3), (5)*** [~~(1), (3), (4), (6)~~] but only so far as it relates to students, KRS 61.810***(6),*** (7), (8), (9), (10) and (11), the following requirements shall be met as a condition for conducting closed sessions authorized by KRS 61.810:

(1) Notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session, [~~and~~] the reason for the closed session ***and the specific provision of KRS 61.810 authorizing a closed session***;

(2) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

(3) No final action may be taken at a closed session;

(4) No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

Section 4. KRS 61.820 is amended to read as follows:

All meetings of all public agencies of this state, and any committees or subcommittees thereof shall be held at specified times and places which are convenient to the public and ***all public agencies*** shall provide for a schedule of regular meetings by ordinance, resolution, bylaws or by whatever other means may be required for the conduct of business of that public agency, and ***the*** [~~said~~] schedule of regular meetings shall be made available to the public.

Section 5. KRS 61.825 is amended to read as follows:

(1) A special meeting may be called at any time by the presiding officer of the public agency or by a majority of the members of the governing body of the public agency by delivering personally or by mail written notice to each member of the public agency and to each [~~local~~] newspaper of general circulation, each news service and each [~~local~~] radio or television station which has on file with the public agency a written request to be notified of special meetings. ***The*** [~~Said~~] notice of a special meeting ***shall*** [~~must~~] be delivered personally or by mail at least twenty-four (24) hours prior to the time of ***the*** [~~such~~] meeting as specified in the notice. If time does not permit giving twenty-four (24) hour notice, [~~then~~] notice that is reasonable under existing circumstances and is calculated to inform the public shall be given to the news media and the public. ***The notice shall specify the time and place of the special meeting and shall include an agenda for the special meeting. Discussions and action at the meeting shall be limited to items listed on that agenda.***

(2) The notice provided for in subsection (1) of this section is not required in the event that a special meeting is called to deal with an emergency involving injury or damage to personal property or financial loss to a public agency or the likelihood of such injury or damage or financial loss, when the time requirements of such notice of such special meeting would make such notice impractical and increase the likelihood of injury or damage or financial loss.

(3) With the exception of special meetings called pursuant to subsection (2) of this section no special meeting shall be held except in full compliance with provisions of subsection (1) of this section.

Section 6. KRS 61.830 is amended to read as follows:

Any rule, resolution, regulation, ordinance or other formal action of a public agency without substantial compliance with the requirements of KRS 61.810, 61.815, 61.820 and 61.825 shall be voidable by a court of competent jurisdiction. A certificate by the clerk or secretary of said public agency at said meeting that the requirements of KRS 61.810, 61.815, 61.820 and 61.825 were complied with shall be prima facie ***evidence of such compliance*** [~~and admissive in any court of competent jurisdiction~~].

SECTION 7. A NEW SECTION OF KRS 61.805 TO 61.850 IS CREATED TO READ AS FOLLOWS:

***(1) Any person may complain in writing to the Attorney General of the Commonwealth of Kentucky regarding a violation of KRS 61.805 to 61.840. The Attorney General shall request a written response by the public agency concerned and shall issue within ten (10) days (excepting Saturdays, Sundays and legal holidays) of his receipt of the complaint a written opinion to the agency stating whether the agency acted consistent with the provisions of KRS 61.805 to 61.840, and determining whether any rule, resolution, regulation, ordinance or other formal action taken without substantial compliance with the requirements***

***of KRS 61.810, 61.815, 61.820 and 61.825 is void. A copy of the opinion shall also be sent by the Attorney General to the person who complained to the Attorney General. The burden of proof in sustaining the action complained of shall rest with the agency.***

***(2) If a person feels the intent of KRS 61.805 to 61.840 is being subverted by an agency action not violative of the literal language of those sections, the person may complain in writing to the Attorney General and the complaint shall be subject to the adjudicatory process set forth in this section.***

***(3) If the Attorney General finds a violation of KRS 61.805 to 61.840 by the public agency, the agency may institute proceedings within thirty (30) days for injunctive or declaratory relief in the Circuit Court of the district where the agency has its principal place of business. If the public agency fails to institute the action, the person who complained to the Attorney General may obtain a court order in conformance with the Attorney General's opinion, and the public agency shall be precluded from arguing that its conduct has not violated the law. If the Attorney General finds no violation of KRS 61.805 to 61.840, the person making the complaint to the Attorney General may institute proceedings within thirty (30) days for injunctive, declaratory or other relief in the Circuit Court of the district where the agency has its principal place of business.***

SECTION 8. A NEW SECTION OF KRS TO 61.850 IS CREATED TO READ AS FOLLOWS:

***(1) The Circuit Court of this state shall have jurisdiction to enforce the purposes of KRS 61.805 to 61.840, by injunction or other appropriate order on application of any person.***

***(2) In order for the Circuit Courts of this state to exercise their jurisdiction to enforce the purposes of KRS 61.805 to 61.840, it shall not be necessary to have forwarded any complaint to the Attorney General pursuant to KRS 61.845 or for the Attorney General to have acted in any manner upon a request for his opinions.***

***(3) In any such action, the court shall determine the matter de novo and the burden of proof shall be on the public agency to sustain its action.***

***(4) Courts shall take into consideration the basic policy of KRS 61.805 to 61.840 that the formation of public policy is public business and may not be conducted in secret and that the exceptions provided for by KRS 61.810 or otherwise provided for by law shall be strictly construed, even though open meetings may cause inconvenience, embarrassment or a loss of efficiency to public officials or others. Except as otherwise provided by law or rule of court, proceedings arising under this section take precedent on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.***

***(5) Any person who prevails against any agency in any action in the courts regarding an alleged violation of KRS 61.805 to 61.840 shall be awarded all costs, including reasonable attorneys' fees, incurred in connection with the legal action. If the person prevails in part, the court shall award him the appropriate portion of his costs and reasonable attorneys' fees. In addition, it shall be within the discretion of the court to award the person an amount not to exceed one hundred dollars ($100) for each instance in which the court finds a violation. Attorneys' fees, costs and awards under this section shall be paid by the agency responsible for the violation.***

Section 9. The following KRS section is repealed:

61.845 Enforcement.

The Committee Substitute to **HB 361** is as follows:

**HB 361**, AN ACT relating to open meetings.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.810 is amended to read as follows:

All meetings of a quorum of the members of any public agency***, and any meetings of less than a quorum of the members which are scheduled for the purpose of avoiding the requirements of this section,*** at which any public business is discussed or at which any action is taken by such agency, are declared to be public meetings, open to the public at all times, except for the following:

(1) Deliberations for decisions of the Kentucky Parole Board.

(2) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.

(3) Discussions of proposed or pending litigation against or on behalf of the public agency.

(4) Grand and petit jury sessions.

(5) Collective bargaining negotiations between public employers and their employees or their representatives.

(6) Discussions or hearings which might lead to the appointment, discipline or dismissal of an individual employee, member or student without restricting that employee's, member's or student's right to a public hearing if requested, provided that this exception is designed to protect the reputation of individual persons and shall not be interpreted to permit discussion of general personnel matters in secret.

(7) Meetings between public agencies and industrial prospects.

(8) State cabinet meetings and executive cabinet meetings.

(9) Committees of the General Assembly other than standing committees.

(10) Meetings which federal or state law specifically require to be conducted in privacy.

(11) Meetings which the Constitution provides shall be held in secret.

Section 2. The Interim Joint Committee on State Government shall study during the 1990-92 interim open records and open meetings statutes to determine their best and fairest construction to accommodate the interests of public agencies, the media and the citizens of the Commonwealth. This report shall be submitted to the Kentucky General Assembly no later than July 1, 1991. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided from the regular commission budget and are subject to the limitation and other research responsibilities of the commission.

The Committee Title Amendment to the Committee Substitute to **HB 361** is as follows:

Amend printed copy of **HB 361/TITLE** by amending the title to read as follows: "AN ACT relating to freedom of information".

**HB 387**, AN ACT relating to executive department employees.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified ***service*** [~~services~~] because of his political ***activities*** or religious opinions or affiliations or ethnic origin or sex or handicap. No person ***over*** [~~between~~] the ***age*** [~~ages~~] of forty (40) [~~and seventy (70)~~] shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) ***No person shall directly or indirectly threaten a classified employee with loss of employment, denial of promotion or with any other penalty for supporting or not supporting any political candidate or party, nor shall any person engage in a reprisal against the employee by causing his dismissal, failure to be promoted or other penalty*** [~~No employe in the classified service or member of the board or its executive director or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employe in the classified service.~~]

(4) ***It shall be an unlawful practice for any person to levy an assessment against a classified employee before, during, or after a political campaign.*** [~~No employe in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employes of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis~~].

Section 2. KRS 18A.990 is amended to read as follows:

(1) Any person who wilfully violates any provision of KRS 18A.005 to ***18A.138 and 18A.145 to*** 18A.200 or of the ***administrative regulations*** [~~rules~~] shall be guilty of a misdemeanor, and shall upon conviction be punished [~~therefor~~] with a sentence of from thirty (30) days to a maximum of six (6) months in jail.

(2) Any person who is convicted of a misdemeanor under KRS 18A.005 to 18A.200 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employe of the Commonwealth, shall forfeit his office or position.

(3) Any ***person*** [~~officer or employe of the classified service~~] who wilfully violates any of the provisions of KRS 18A.140 shall forfeit his office or position, and for ***five (5) years*** [~~one (1) year~~] shall be ineligible for any office or position in the Commonwealth's service. ***Any person who violates KRS 18A.140 shall be confined in the county jail for not less than six (6) months nor more than one (1) year*** [~~Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 334 IS CREATED TO READ AS FOLLOWS:

***This Act shall be known as the Classified Employees' Political Freedom Act, or CEPFA.***

The Committee Amendment No. 1 to **HB 387** is as follows:

Amend printed copy of **HB 387** on page 2, by deleting lines 4 through 13 and inserting in lieu thereof the following: "***penalty.*** No employee in the classified service or member of the board or its executive director or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, [~~or solicit or take any part in soliciting for any political party,~~] or solicit or take any part in soliciting any political assessment[~~, subscription, contribution, or service~~]. No person shall solicit any political assessment[~~, subscription, contribution, or service~~] of any employee in the classified service."; and

On page 2, by deleting lines 16 through 26, and on page 3 by deleting lines 1 through 4 and inserting in lieu thereof the following: "***before, during, or after a political campaign.*** No [~~employe in the classified service or~~] member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. ***Members of the board and its executive director*** [~~Officers or employes of the classified service~~] may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis."

**HB 836**, AN ACT to revise and correct the Kentucky Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS 82.088 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In order to prevent crime, protect the city's retail trade, maintain property values and generally to protect and preserve the quality of its neighborhoods, commercial districts and the quality of urban life, a city, by ordinance, may regulate the location of adult establishments by dispersing them throughout the city or by concentrating them in one (1) area.

(2) "Adult establishment", as used in this section, shall include, but not be limited to, the following:

(a) Adult bookstore;

(b) Adult motion picture theater; or

(c) Adult mini motion picture theater.

SECTION 2. KRS 304.3-230 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Upon issuance of a certificate of authority to do business in this state, the following shall be deemed to have appointed the Secretary of State as their attorney to receive service of lawful process issued against them in this state:

(a) Foreign or alien insurers;

(b) Domestic reciprocal insurers;

(c) Domestic Lloyd's insurers;

(d) Qualified self-insurers.

(2) Such appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the insurer, or liabilities or duties arising therefrom.

(3) Service of lawful process against unauthorized insurers, except in contracts issued by insurers or underwriters to industrial insureds as defined in KRS 304.11-020, shall be made upon the secretary of state, as provided in KRS 304.11-040.

(4) Service of lawful process against authorized domestic insurers shall be had pursuant to KRS 271B.5-040.

(5) If the Secretary of State is by law the lawful attorney for service of process, the clerk of the court in which action is brought shall issue a summons against the defendant named in the complaint and shall serve by certified mail, return receipt requested, two (2) true copies of the summons with two (2) attested copies of plaintiff's complaint to the Secretary of State. The Secretary of State shall immediately mail a copy of the summons and complaint to the defendant; if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer to the last known principal place of business. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the Secretary of State. The Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Kentucky Rules of Civil Procedure.

(6) The Secretary of State shall keep a record of the date and hour of receipt of such lawful process, as well as the date it is forwarded to the defendant.

(7) For the purpose of this section, "lawful process" shall include only the summons which initiates and commences a cause of action, and such other initial notices, rules, or orders which would be required by the Kentucky Rules of Civil Procedure to be by personal service.

(8) The sheriff serving the summons upon the Secretary of State shall pay to him at the time of service a fee in the amount set forth in KRS 454.210, which shall be taxed as costs in the action.

SECTION 3. KRS 341.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In the discharge of the duties imposed by this chapter members of the commission, the secretary or any duly authorized representative thereof, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records considered necessary and relevant as evidence in connection with the administration of this chapter. Such subpoena shall be served in the same manner as a subpoena issued out of a Circuit Court and the sheriff shall receive the same fee as provided by law for like service in civil actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the rates prescribed by KRS 421.015 for each day their attendance is actually required at a hearing.

(2) The secretary, or any authorized representative of the secretary, shall have the power, in any and all counties of this Commonwealth, now granted by law to sheriffs within their respective jurisdictions, to execute and make due return of all notices, summonses, including summonses duces tecum, subpoenas, and executions in respect to all court actions instituted to enforce the provisions of this chapter. Neither the secretary nor his authorized representative shall be deemed to be an interested party in the action by reason of his official or representative capacity.

SECTION 4. KRS 413.135 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) No action to recover damages, whether based upon contract or sounding in tort, resulting from or arising out of any deficiency in the construction components, design, planning, supervision, inspection or construction of any improvement to real property, or for any injury to property, either real or personal, arising out of such deficiency, or for injury to the person or for wrongful death arising out of any such deficiency, shall be brought against any person after the expiration of seven (7) years following the substantial completion of such improvement.

(2) Notwithstanding the provisions of subsection (1) of this section, in the case of such an injury to property or the person or wrongful death resulting from such injury, which injury occurred during the seventh year following substantial completion of such improvement, an action to recover damages for such injury or wrongful

death may only be brought within one (1) year from the date upon which such injury occurred (irrespective of the date of death), but in no event may such an action be brought more than eight (8) years after the substantial completion of construction of such improvement.

(3) Nothing in this section shall be construed as extending the period prescribed by statute for the bringing of any action for damages.

(4) As used in this section, the term "person" shall mean an individual, corporation, partnership, business trust, unincorporated association or joint stock company; the term "substantial completion" shall be construed to mean the date upon which the owner of the structure, project or facility first entered upon the occupancy or commenced the use thereof.

Section 5. The General Assembly expressly authorizes and directs the Reviser of Statutes to modify the text of KRS 81.010, "classification of cities," on a continuing basis to reflect reclassifications enacted by the General Assembly and incorporations certified to the Secretary of State pursuant to KRS 81.060(5).

Section 6. By enacting Sections 1 through 4 of this Act, the General Assembly ratifies and confirms the prior action of the Reviser of Statutes acting pursuant to the authority established by KRS 7.140 and 7.136.

HB 877, AN ACT relating to alcohol and drug abuse.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, "Council" means the Alcohol and Drug Abuse Council.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

***(1) The Alcohol and Drug Abuse Council shall be created to coordinate the efforts of governmental agencies to control alcohol and drug abuse. The council shall be composed of eleven (11) members as follows:***

***(a) The Secretary of the Executive Cabinet;***

***(b) The Secretary of the Cabinet for Human Resources;***

***(c) The Secretary of the Corrections Cabinet;***

***(d) The Secretary of the Justice Cabinet;***

***(e) The Attorney General;***

***(f) The Superintendent of Public Instruction; and***

***(g) Five (5) citizens selected by the Governor with experience in alcohol and drug abuse programs.***

***(2) The Secretary of the Executive Cabinet shall serve as chairman of the council.***

***(3) The public members of the council shall be appointed by the Governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; one (1) member shall serve two (2) years; one (1) member shall serve three (3) years; and one (1) member shall serve four (4) years.***

***(4) The chairman shall be the only member of the council to receive compensation for services rendered. Members shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.***

***(5) The Governor's Office for Alcohol and Drug Abuse Prevention shall provide staff services to the council. The council shall establish and maintain complete records of the council's actions and proceedings which shall be public records.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

***The responsibilities of the council shall include but shall not be limited to:***

***(1) Planning effective coordination of agencies to prevent and treat alcohol and drug abuse;***

***(2) Identifying and promoting the full range of resources and funding available to prevent and treat alcohol and drug abuse;***

*(3) Planning strategies preventing or treating alcohol and drug abuse where more than one (1) agency is involved; and*

*(4) Recommending procedures for reduction of overlapping efforts, activities, or actions by agencies.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

*The duties of the council shall include but shall not be limited to:*

*(1) Developing a coordinated statewide plan involving all agencies which set goals, objectives, and priorities to accomplish the purposes of this Act and outlining how the goals and objectives will be met, to be updated no less than annually;*

*(2) Monitoring and evaluating on an ongoing basis the implementation of the council's plan and the extent to which the goals and objectives of each agency is consistent with the plan;*

*(3) Reviewing and monitoring services and programs provided by agencies to prevent and treat alcohol and drug abuse;*

*(4) Developing, maintaining, and disseminating information which promotes an understanding of the detrimental effects, including the civil and criminal consequences, of alcohol and drug abuse;*

*(5) Cooperating with state and federal agencies to prevent and treat alcohol and drug abuse;*

*(6) Encouraging and supporting research and prevention efforts in the area of alcohol and drug abuse;*

*(7) Reviewing existing and proposed administrative regulations relating to the prevention or treatment of alcohol and drug abuse and making recommendations on those regulations to the agencies;*

*(8) Reviewing and making recommendations on proposed legislation relating to alcohol and drug abuse;*

*(9) Reviewing and approving all grant applications relating to alcohol and drug abuse to ensure consistency with the council's plan; and*

*(10) Submitting annual reports to the Governor no later than June 15th of each year, with supplemental reporting as appropriate. The report shall contain the current coordinated statewide plan, a summary of the actions of the council, and any recommendations for improvements in the management and coordination of activities by agencies.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

*(1) The council shall hold quarterly meetings, with additional meetings as it deems necessary. The council may hold hearings from time to time on matters within its purview.*

*(2) The council may establish committees as it deems advisable and feasible, the membership of which shall include at least one (1) member of the council, but only the council shall take official action.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

*The council shall hire the executive director of the Governor's Office of Alcohol and Drug Abuse Prevention. The executive director shall hire appropriate staff to carry out the duties of the council.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

*(1) Each council member representing the executive branch shall designate a person from his respective agency as the council coordinator to work with the staff of the Office of Alcohol and Drug Abuse Prevention. The coordinator shall provide such information as the council may require regarding the activities of the agency in the prevention and treatment of alcohol and drug abuse.*

*(2) Each officer, board, commission, council, department, and agency of the state and each political subdivision of the state shall make available all facts, records, information and data required by the council and in all ways cooperate with the council in carrying out its duties and functions.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

*(1) The council may apply for, contract for, receive, and expend for its purposes any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.*

*(2) To assist financially with the exercise of functions and duties of the council, state appropriations are hereby authorized in such amounts as specified in the biennial budget.*

**HB 896,** AN ACT relating to surety bonds.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 176.080 is amended to read as follows:

(1) Each bidder shall accompany his bid with a bond or certified check payable to the State Treasurer for a reasonable sum, fixed by the department, guaranteeing that he will enter into a contract with the department for doing the work if the work is awarded to him.

(2) The contract shall be awarded to the lowest and best bidder. The department may require bonds from any contractor to secure the performance of any contract or may require security by any other means it deems advisable, ***except that the department shall not require a performance bond on any state contract, for goods or services, awarded in the amount of one hundred thousand dollars ($100,000) or less, when the contractor is not paid for the services rendered, as required by the contract, until after completion and acceptance of the services performed or of the goods delivered. The goods or services shall be delivered or performed within a twelve (12) month period of time from the date the contract was awarded.***

(3) ***Failure by the contractor to commence work under the contract in time or to complete the work in time, as required by the department shall constitute a "prima facie" case that the contractor has failed to perform the contract and the department may immediately cancel the contract.*** The department may reject any bid when it finds it for the best interest of the state to do so. When all bids are rejected, the department shall advertise for new bids as in the first place.

**HB 902,** AN ACT relating to an electronic information delivery system, and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

***(1) The Finance and Administration Cabinet shall develop and administer an electronic information delivery system to provide a wide range of government information to the public, to assist citizens in locating government services, and to disseminate information traditionally distributed in paper form to state offices. As a primary objective, this system shall disseminate information which improves the opportunity for small businesses to participate in state purchasing activity. Regarding purchasing information, the system shall include but not be limited to information concerning bid opportunities, bid advertisements, information on procedures for doing business with the state and other information which the cabinet determines is essential to support the intent of this Act. All departments, divisions, agencies and officers of the Commonwealth shall furnish the cabinet with necessary assistance, information and records as it may require.***

***(2) The information delivery system shall be computer-based and accessible through the statewide teleprocessing network from at least one (1) public location in each county. The cabinet shall make a determination concerning the location of public access terminals. Priority shall be given to those locations which offer the best access during normal business hours.***

***(3) The cabinet may also offer dial-in access to the system, if this use does not compromise the availability of the system for the purpose contemplated in subsection (2) of this section. If dial-in access to the system is permitted, the cabinet shall prescribe a system of user fees to recover developmental and operational costs. The cabinet shall charge only for actual costs incurred.***

***(4) The cabinet shall prescribe a system of user fees to recover the developmental and operational costs in establishing and operating the system for the purpose contemplated in subsection (2) of this section. The cabinet shall charge only for actual costs incurred.***

***(5) The cabinet shall also establish reasonable costs to be collected for the production of a paper copy from the system. The cabinet shall charge only for actual costs incurred.***

Section 2. To carry out the purposes of this Act, there is appropriated to the Finance and Administration Cabinet out of the general fund in the State Treasury the sum of seven hundred thousand dollars ($700,000) for the 1991 fiscal year and the sum of two hundred twenty-eight thousand dollars ($228,000) for the 1992 fiscal year, and any unexpended appropriation balance for the fiscal year ending June 30, 1991, shall not lapse, but be carried forward into the 1992 fiscal year.

**HR 3,** A RESOLUTION requesting the Legislative Research Commission to re-establish the Subcommittee on Veterans' Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the present committee structure of the Kentucky General Assembly does not allow proper attention to be paid to these concerns; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested the Legislative Research Commission to establish a permanent committee on veterans' affairs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Kentucky Legislative Research Commission is requested to establish a Subcommittee on Veterans' Affairs to operate during the 1990-91 interim and present its recommendations to the Kentucky General Assembly.

Section 2. It is recommended that this subcommittee be appointed by the Legislative Research Commission.

**HCR 144,** A CONCURRENT RESOLUTION requesting that the United States Army approve the authorization of the Combat Tankers Badge.

WHEREAS, Fort Knox, Kentucky has been recognized as the home of armor since January, 1933; and

WHEREAS, thousands of brave American soldiers have trained at the Fort Knox Armor Training School and have served our country as combat tank and armor crewmen; and

WHEREAS, the U.S. Army Airland Battle Doctrine states that "In mounted warfare, the tank is the primary offensive weapon. Its fire power, protection from enemy fire, and speed create the shock effect necessary to disrupt the enemy's operations and defeat him"; and

WHEREAS, American armor crewmen have served with great distinction in such decisive engagements such as the Battle of the Bulge; Kasserine Pass; Sbiba Pass; the Battle for Palermo; the capture of Osan, Korea; and operations Cedar Falls and Junction City in Vietnam; and

WHEREAS, those tank and armor crewmen who have served with distinction and bravery have not been recognized or awarded an appropriate military decoration to honor their accomplishment as combat tank crewmen;

NOW, THEREFORE,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the United States Army approve the authorization of the Combat Tankers Badge.

Section 2. That the Clerk of this House is directed to send a copy of this resolution to President Bush, the Kentucky Congressional delegation, the Department of the Army, and the United States Department of Defense.

The Committee on Appropriations and Revenue reported **HB 5** with Committee Amendment attached thereto, **SB 4**, **SB 82** with Committee Amendment attached thereto, **SB 239**, **SB 257**, **SB 319**, **SB 331** and **HB 243** with Committee Substitute and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 5,** AN ACT relating to income taxes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 141.021 is amended to read as follows:

Notwithstanding the provisions of KRS 141.010, federal [~~military~~] retirement annuities shall be excluded from [~~the~~] gross income. [~~of persons fifty (50) years of age or older, and federal retirement annuities shall be excluded from the gross income of persons receiving annuities from a federal retirement system and who are fifty (50) years of age or older, subject to the following limitations:~~

| ~~If Earned Income From Sources Other Than Annuities Described Above Is:~~ | ~~The Maximum Annuity Exclusion Is:~~ |
|---|---|
| ~~$3,000 or Less~~ | ~~$4,000~~ |
| ~~3,001 to 4,000~~ | ~~3,000~~ |
| ~~4,001 to 5,000~~ | ~~2,000~~ |
| ~~5,001 to 6,000~~ | ~~1,000~~ |
| ~~Over 6,000~~ | ~~0~~] |

The Committee Amendment No. 1 to **HB** 5 is as follows:

Amend printed copy of **HB** 5 on page 1, line 3, by adding after the word "annuities" the words:

" ***, and local government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or 96.180,***".

SB 4, AN ACT relating to income taxes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 141.021 is amended to read as follows:

Notwithstanding the provisions of KRS 141.010, federal [~~military~~] retirement annuities, ***and local government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or 96.180,*** shall be excluded from [~~the~~] gross income. [~~of persons fifty (50) years of age or older, and federal retirement annuities shall be excluded from the gross income of persons receiving annuities from a federal retirement system and who are fifty (50) years of age or older, subject to the following limitations:~~

| ~~If Earned Income From Sources Other Than Annuities Described Above Is:~~ | ~~The Maximum Annuity Exclusion Is:~~ |
|---|---|
| ~~$3,000 or Less~~ | ~~$4,000~~ |
| ~~3,001 to 4,000~~ | ~~3,000~~ |
| ~~4,001 to 5,000~~ | ~~2,000~~ |
| ~~5,001 to 6,000~~ | ~~1,000~~ |
| ~~Over 6,000~~ | ~~0~~] |

SB 82, AN ACT relating to hazardous positions.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the transportation cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. ***Hazardous positions shall include positions in the Corrections Cabinet in state correctional institutions with duties that regularly and routinely require face-to-face contact with inmates.***

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump sum payment in his own behalf ***or may pay in his own behalf in increments by payroll deduction each pay period prior to his retirement.*** Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

Section 2. KRS 196.160 is amended to read as follows:

***(1)*** The secretary shall appoint a warden, a receiver and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance.

***(2) The cabinet shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions with duties that regularly and routinely require face-to-face contact with inmates.***

The Committee Amendment No. 1 to **SB 82** is as follows:

Amend printed copy of GA Copy **SB 82** on page 1, line 4, by bracketing and striking through the word "position" and by substituting therefor the word "***positions***" and

On page 1, line 4, by adding after the word "officer" and before the parenthesis the words "***, and Commonwealth detective***"

**SB 239**, AN ACT relating to health care and making appropriations therefor.

WHEREAS, accessibility to health care, particularly primary care, is severely limited in certain areas of Kentucky and is often fragmented and inefficient; and

WHEREAS, the percentage of Kentuckians, especially women, who live in poverty is growing and poverty often means delay in seeking timely and necessary care and consequent death; and

WHEREAS, one in four women giving birth in Kentucky in 1986 received no prenatal care or received care only after the first trimester of pregnancy; and

WHEREAS, physicians and other highly trained health professionals are very difficult to recruit in the medically underserved areas of Kentucky; and

WHEREAS, it is necessary to change the content and location of training for health professionals; and

WHEREAS, Kentucky ranks 26th among 32 rural states in the availability of health manpower; and

WHEREAS, rural Kentuckians are in poorer health than urban Kentuckians; and

WHEREAS, accidental death rates are higher in rural areas; and

WHEREAS, approximately seven hundred thousand Kentuckians do not have health insurance; and

WHEREAS, infants born to parents without health insurance have a thirty percent greater chance of sickness or death; and

WHEREAS, approximately one-half of the persons who are uninsured are employed or are in families with an employed parent; and

WHEREAS, a corporate taxpayer can recover through Kentucky and federal income taxes from eighteen percent to forty-six percent of the cost of providing health insurance coverage for its employees; and

WHEREAS, a significant portion of the cost of health insurance premiums is used to support health care for the employees whose employer does not provide health insurance benefits; and

WHEREAS, tax credits for employers just beginning to provide health insurance coverage for its employees are a means of forging a public-private partnership to serve a common good; and

WHEREAS, employers providing health insurance coverage to employees in lieu of a wage increase may permanently save fifty to sixty percent of the cost of the insurance in combined savings on taxes; and

WHEREAS, only half of the Kentuckians with incomes less than the federal poverty guidelines qualify for medicaid; and

WHEREAS, one in seven Kentucky children has no health insurance; and

WHEREAS, the burden of providing charity care to Kentuckians needing hospitalization is not evenly distributed across Kentucky hospitals or adequately compensated; and

WHEREAS, the federal government matches state dollars at a ratio at seventy-two cents of federal money for every twenty-eight cents of state money for support of the medicaid program; and

WHEREAS, the reimbursement of expenditures for institutional long-term care is borne primarily by the medicaid program; and

WHEREAS, increases in the elderly population, advances in medical technology, and other factors have doubled the cost of health care since 1980;

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

***As used in this Act, unless the context otherwise requires:***

***(1) "Board" means the Kentucky Board of Family Health Care Providers;***

***(2) "Linkage" means a formal written agreement initiated by a network, between the network and any agency providing emergency, hospital, home health, hospice, long-term care, mental health, substance abuse, aging, social and educational services, as well as specialized health care services.***

***(3) "Midlevel health care practitioner" means a person qualified to provide health care services as enumerated by the board.***

***(4) "Network" means a health care delivery network system which is an integrated system of health care services, including, but not limited to, the direct delivery of basic health services, such as patient histories and physicals, preventive health care, treatment of acute episodes of illness and chronic illness, immunizations, laboratory, x-ray, dental and pharmacy services. Networks shall be formally linked to emergency, hospital, home health, hospice, long-term care, mental health, substance abuse, aging, social and educational services as well as specialized services such as oncology, neurology, and surgery. The primary facility of a network shall be a clinic or physician's office only.***

***(5) "Medical chart auditor" means a person with at least two (2) years of experience with quality assurance review and with knowledge of the board approved protocols and the individual patient's treatment plan contained in the medical record.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

***It shall be unlawful to operate or maintain a network without first obtaining a license from the Cabinet for Human Resources. A network shall not require a certificate of need.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

*(1) Any licensed network shall be permitted to establish one (1) extension site per full-time physician on the staff of the network. Extension sites shall not be required to have a separate license but shall conform to administrative regulations promulgated by the Cabinet for Human Resources and shall be inspected on a regular basis.*

*(2) Each network shall establish protocols for the treatment of the twenty (20) most common patient problems. At a minimum, the protocols shall identify for each problem a working definition, patient symptoms, diagnostic techniques, acceptable values for laboratory findings, conditions under which a physician shall be consulted and treatment methods. These protocols shall be approved by the board. The protocols shall be listed in a handbook provided to each midlevel health care practitioner and shall be available to patients upon request.*

*(3) Each network shall have a system of patient and family medical records which employs the problem-oriented medical record format.*

*(4) A network shall employ a primary care physician who has admitting privileges at a local hospital. The network shall hire ancillary personnel as necessary to provide the basic services of the network. The network may hire midlevel health care practitioners to assist the physician but there shall be one (1) physician on staff for each midlevel health care practitioner.*

*(5) A physician shall see each patient for whom services are provided by a mid-level health care practitioner not less than twice a year. A medical chart auditor shall review the medical record entries for each patient encounter on the day of the encounter and will refer to the physician immediately any deviation from protocol.*

*(6) Each network shall develop a quality assurance program which shall be approved by the board. At a minimum, the quality assurance program shall address:*

*(a) Program goals and objectives;*

*(b) Program organization, including identification of responsible parties, the nature of their responsibilities, and the persons to whom they report; and*

*(c) Identification of the patient care process.*

*(7) Each network shall establish a process by which it regularly evaluates the health care needs of its community and the services it provides in response to those needs.*

*(8) Each network shall provide the following educational opportunities:*

*(a) Ninety (90) minutes each week of continuing education to its health care providers on topics relating to patient care needs; and*

*(b) One and one-half (1.5) days leave and fifty percent (50%) of expenses up to three hundred dollars ($300) per year to its midlevel health care practitioners for approved continuing education outside of the network.*

*(9) Each network shall either provide directly for twenty-four (24) hour, seven (7) day per week access to care for its patients or have formal written agreements with local providers to insure twenty-four (24) hour, seven (7) day per week access to care for its patients.*

*(10) No network may charge or collect more money for the services of any midlevel health care practitioner than is allowable under medicaid for other non-physician practitioners.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:.

*The Cabinet for Human Resources shall promulgate administrative regulations necessary to implement Sections 1 through 3 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

*There is hereby created the Kentucky Board of Family Health Care Providers.*

*(1) The board shall be composed of one (1) representative from each of the following organizations: the Kentucky Medical Association, the Kentucky Nursing Association, a physician from the Kentucky Public Health Association, the Kentucky Dental Association, the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the Kentucky Board of Pharmacy, the Kentucky Academy of Family Practitioners, a physician from either family practice or community medicine representing each of the colleges of medicine in the Commonwealth, and a consumer.*

*(2) The board shall:*

*(a) Certify new midlevel health care practitioners, recertify midlevel health care practitioners annually, and revoke certification as necessary;*

*(b) Develop and administer qualifying examinations for midlevel health care practitioners to test knowledge of the most frequently occurring protocols;*

*(c) Identify continuing education requirements for midlevel health care practitioners and qualify the continuing education courses provided to them;*

*(d) Approve or prescribe the treatment protocols utilized by each network;*

*(e) Approve the quality assurance programs of each network;*

*(f) Approve the drug formulary used by each network; and*

*(g) Issue administrative regulations necessary to implement Sections 5 and 6 of this Act.*

*(3) The board shall meet at least quarterly. The Cabinet for Human Resources shall provide necessary staff assistance to the board and shall reimburse board members at the rate of reimbursement for the advisory councils and committees.*

*(4) Applicants for certification and recertification shall pay a fee of fifty dollars ($50). These fees shall be placed in a trust and agency fund and shall be used to cover the cost of board operations and the administration of examinations.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

*(1) A midlevel health care practitioner may be qualified by:*

*(a) Being a health professional licensed or certified by a body granted such authority by the Kentucky Revised Statutes and passing the qualifying examination; or*

*(b) Working under the supervision of a family physician in a network for a minimum of five (5) years and passing the qualifying examination.*

*(2) To maintain a certification in good standing, a midlevel health care practitioner shall:*

*(a) Complete annually a minimum of ten (10) medical education hours recognized by the board; and*

*(b) Retake and pass the qualifying examination at least once every five (5) years.*

*(3) Midlevel health care practitioners may assist physicians in networks as follows:*

*(a) Provide management of a limited number of chronic conditions for which protocols have been approved by the board and treatment plans prescribed by a network physician. Each patient for whom services are provided by a mid-level health care practitioner shall be examined at least twice a year by a network physician. During such examinations, the health care needs of the patient and the management regimen maintained by the mid-level health care practitioner shall be evaluated and documented in the patient's medical chart. No mid-level health care practitioner shall see a patient for initial consideration of a patient's medical problem nor shall a mid-level health care practitioner attempt to manage or treat a patient for an acute condition. Every encounter between a mid-level health care practitioner and a patient shall be reviewed by a medical chart auditor on the day of the encounter and any deviation from the treatment plan or protocol shall be immediately reported to the supervising network physician;*

*(b) Cause maintenance medications used in the treatment of chronic conditions to be dispensed to network patients solely within the confines of the network in accord with the protocols and formulary approved by the board and the treatment plan prescribed by a network physician at a charge not to exceed the cost of the medication plus a one dollar ($1) dispensing fee;*

*(c) Make referrals in accordance with the linkage agreements and follow-up on referrals to assure they did occur;*

*(d) Provide patient education in accordance with the treatment plan; and*

*(e) Provide treatment as defined herein in either the primary facility of the network or in network extension clinics, if physician consultation is immediately available in person or by telephone. Midlevel health care practitioners shall not provide treatment in hospitals, skilled nursing homes, nursing homes, intermediate*

***care facilities, personal care homes, family care homes, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers, ambulances, hospices, community mental health and mental retardation facilities, home health agencies, and kidney disease treatment centers. A midlevel health care practitioner shall not replace existing licensed, registered or certified health care personnel.***

***(4) Midlevel health care practitioners shall be utilized to expand the availability of health services. They shall not be used to expand the economic base of any network.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

***Linkage agreements shall identify the nature of the working relationship, provide a systematic means of following up on all referrals and guarantee access to each of the services in the linkage agreement.***

Section 8. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Human Resources undertakes to pay shall be designated and limited by regulations promulgated by ***the*** [~~said~~] cabinet, pursuant to the provisions ***in this section*** [~~hereof~~]. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any [~~such~~] medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of ***the*** [~~such~~] teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for Human Resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where ***the*** [~~such~~] aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses ***shall be*** [~~are~~] provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent; [~~and~~]

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where ***the*** [~~such~~] students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein***;***

***(h) Services provided by health care delivery networks as defined in Section 1 of this Act; and***

***(i) Services provided by midlevel health care practitioners as defined in Section 1 of this Act.***

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing ***the*** [~~such~~] services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Human Resources with respect to ***the*** [~~such~~] bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the medical assistance program, the Cabinet for Human Resources shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. Department of Labor.[~~; provided however, that~~] Medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit ***shall*** [~~are~~] not ***be*** reimbursable and shall be borne by the facility. [~~, provided however, that~~] Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Human Resources if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless ***the*** [~~such~~] payments are for services which would otherwise be necessary to the operation of the facility and ***the*** [~~such~~] services are required by regulations of the Cabinet for Human Resources. Any other [~~such~~] payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators and other indirect payments made to the owner, unless ***the*** [~~such~~] payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Human Resources; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship ***shall*** [~~will~~] be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. [~~and provided however, that~~] An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Human Resources shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing ***the*** [~~such~~] medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. ***It shall not be necessary that*** the amount of payments for units of services [~~need not~~] be uniform for the entire state but ***amounts*** may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in ***each*** [~~such~~] locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, ***as*** [~~so~~] long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless ***the*** [~~such~~] recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under ***the*** [~~such a~~] physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of ***the*** [~~such~~] payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) ***No*** [~~Every~~] long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986 shall [~~not~~] deny admission of a person to a bed certified for reimbursement under the provisions of the medical assistance program solely on the basis of the person's paying status as a medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the medical assistance program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for medicaid reimbursement. No facility may decertify a bed occupied by a medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

***(10) Family practice physicians practicing in geographic areas with no more than one (1) primary care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***Beginning October 1, 1990, pregnant women and children up to age one (1) shall be eligible for participation in the Kentucky medical assistance program if:***

***(1) They have family income up to but not exceeding one hundred and eighty-five percent (185%) of the nonfarm income official poverty guidelines as promulgated by the Department of Health and Human Services of the United States as revised annually; and***

***(2) They are otherwise eligible for the program.***

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

***The University of Kentucky, the University of Louisville and the Board of Family Health Care Providers shall develop a program to meet the requirement that midlevel health care practitioners successfully complete ten (10) hours of continuing education annually.***

Section 11. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the state Board of Medical Licensure;

(2) "President" means the president of the state Board of Medical Licensure;

(3) "Secretary" means the secretary of the state Board of Medical Licensure;

(4) "Executive director" means the executive director of the state Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the state Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears [~~(~~]from verifiable information in the application[~~)~~] to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, ***the practice of a midlevel health care practitioner as defined in Section 1 of this Act,*** the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice

as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Human Resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women. [; ~~provided, however, that~~] KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Human Resources by KRS Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding; and

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 12. KRS 315.040 is amended to read as follows:

(1) Nothing in this chapter shall apply to the sale of usual nonpoisonous domestic remedies, harmless drugs or medicines or patent or proprietary medicine in the original package by any store.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent him from keeping any drug or medicine that he may need in his practice, from compounding his own prescriptions, or from supplying to his patients any article that seems to him proper.

***(3) Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in this Act.***

SECTION 13. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) Reimbursement for physicians and dentists providing services to medicaid recipients shall be increased to reflect budgeted provider profiles beginning October 1, 1990.***

***(2) Beginning October 1, 1992, reimbursement to physicians and dentists shall be increased annually in increments which represent a minimum seventy-five percent (75%) of the most recently reported annual change in the consumer price index as computed by the United States Department of Labor.***

SECTION 14. A NEW SECTION OF KRS 164.910 TO 164.933 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section:***

***(a) "Physician" means a medical doctor practicing full-time family medicine, general obstetrics and gynecology, general pediatrics, or general internal medicine; and***

***(b) "Underserved geographic area" means a county in which the ratio between physicians practicing full time in that county and the county's population results in each physician serving two thousand five hundred (2,500) or more residents, based on population data acceptable to either the University of Kentucky or the University of Louisville.***

***(2) The University of Kentucky and University of Louisville shall establish and maintain physician recruitment and placement services, the principal function of which shall be to recruit or place family or general practice physicians in underserved geographic areas. The Cabinet for Human Resources shall pay each university fifty thousand dollars ($50,000) annually for basic administrative costs in addition to the fees enumerated in subsection (4) of this section.***

***(3) Physician recruitment and placement services may be contracted by licensed health care facilities or services to assist in recruiting physicians in underserved geographic areas. Fees shall be charged by the University of Kentucky or the University of Louisville to the contracting party in an amount not to exceed ten thousand dollars ($10,000) per physician.***

***(4) If no licensed health care facility or service has contracted for recruitment services, when the***

*University of Kentucky or the University of Louisville places a physician in an underserved geographic area or a psychiatrist in a state mental health facility, the following fees shall be paid to the university by the Cabinet for Human Resources, the total of which shall not exceed fifty thousand dollars ($50,000) per university in addition to the fifty thousand dollars ($50,000) per university enumerated in subsection (3) of this section:*

*(a) Ten thousand dollars ($10,000) for a family practice physician entering permanent, full-time practice;*

*(b) Ten thousand dollars ($10,000) for a psychiatrist entering full-time permanent employment in a state mental health facility;*

*(c) Eight thousand dollars ($8,000) for a general obstetrician-gynecologist entering permanent, full-time practice;*

*(d) Two thousand dollars ($2,000) for a general pediatrician or general internal medicine practitioner entering permanent, full-time practice; and*

*(e) One thousand dollars ($1,000) for any other licensed medical practitioner entering permanent, full-time practice.*

*(5) Fees paid to the universities under the provisions of subsection (3) of this section shall be made only after sufficient proof has been presented documenting the university's principal role in influencing the physician's practice location. Correspondence from physicians placed, as well as all other parties directly involved, shall state that the university substantially influenced the physician's choice of practice location and describe in detail the services provided by the university.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*The University of Kentucky shall develop a center of excellence for rural health care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:*

*(1) Coordinate clinical rotations for health science students;*

*(2) Maintain the rural health science library;*

*(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;*

*(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;*

*(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;*

*(6) Implement the provisions of Section 14 of this Act;*

*(7) Maintain clinical training sites for students in the health professions;*

*(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;*

*(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and*

*(10) Provide continuing education for health care professionals.*

*The University of Kentucky shall report to the Council on Higher Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the center of excellence for rural heatlh care by September 1 of each year which enumerates expenditures for the preceeding fiscal year.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

*The University of Louisville shall develop a rural health education program which shall:*

*(1) Coordinate clinical rotations for health science students;*

*(2) Maintain rural health science libraries;*

*(3) Expand a family practice residency program at a regional medical center with decentralized clinical practice sites;*

***(4) Implement the provisions of Section 14 of this Act;***

***(5) Maintain clinical training sites for students in the health professions; and***

***(6) Provide continuing education for health care professionals.***

Section 17. KRS 211.015 is amended to read as follows:

(1) As used in KRS 211.005 to ***211.280*** [~~211.330~~], unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources;

(b) "Secretary" means the secretary of the Cabinet for Human Resources; and

(c) "Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.

(2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:

(a) "Department" means Department for Health Services;

(b) "Commissioner" means the commissioner of the Department for Health Services;

(c) "Committee" means the Hemophilia Advisory Committee; and

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

SECTION 18. A NEW SECTION OF KRS 164.910 TO 164.933 IS CREATED TO READ AS FOLLOWS:

***By July 1, 1991, the Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on Higher Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.***

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding any other provision of Kentucky statute or regulation, eighty percent (80%) of the faculty of associate degree registered nurse education programs shall be registered nurses licensed to practice in Kentucky. Registered nurse education programs requiring an associate degree shall be construed to be technical specialty programs.***

SECTION 20. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 18 IS CREATED TO READ AS FOLLOWS:

***(1) Any area development district or combination of area development districts may form a health care trust.***

***(2) Each health care trust shall:***

***(a) Encourage employers to participate in the purchase of group health insurance coverage for employees;***

***(b) Establish the amount of premiums to be paid into the trust;***

***(c) Negotiate and contract with insurers or health care providers for covered services, including but not limited to, basic inpatient hospital services and emergency medical services for participating employers, employees, their respective spouses and dependent children. Coverage shall not supplement any other public or private health care benefits;***

***(d) Basic inpatient hospital services shall include at least fourteen (14) days room and board and at least fifty percent (50%) of the related charges for physician's services; and***

***(e) Operate as a nonprofit corporation as described in Section 501(c)(3) of the United States Internal Revenue Code, and shall have all powers necessary to effectuate their duties enumerated in this Act. The board of directors, or representatives thereof, of the area development district or combination of area development districts shall serve as the governing board of the health care trust.***

***(3) The health insurance contracts provided in response to this Act shall be exempt from requirements for additional benefits mandated in KRS Chapter 304.***

***(4) No area development district or health care trust, or any officer or employee thereof, shall be deemed to be an insurer or agent of an insurer and shall be exempt from all provisions of KRS Chapter 304.***

SECTION 21. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***(1) The amount of premiums paid for health insurance shall be treated as an income tax credit for state income tax purposes, as follows:***

***(a) Twenty percent (20%) of the first year premium;***

***(b) Fifteen percent (15%) of the second year premium;***

***(c) Ten percent (10%) of the third year premium; and***

***(d) Five percent (5%) of the fourth year premium.***

***(2) No employer or employee shall be eligible for the income tax credits enumerated in this section unless:***

***(a) Premiums are paid into the trust prior to July 1, 1992;***

***(b) Fifty (50) or fewer employees are employed;***

***(c) No health insurance benefits have been provided by the employer during the three (3) years preceding the date premiums are initially paid to the trust;***

***(d) Employers maintain participation in the trust for all full-time and part-time employees for a period of four (4) continuous years; and***

***(e) Employers pay at least fifty percent (50%) of the premium.***

SECTION 22. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

***(1) Area development district health care trusts shall collect one percent (1%) of premiums paid into the trusts to cover administrative costs incurred in discharging their duties as prescribed in this Act.***

***(2) No insurer shall offer and no area development district or employee thereof shall accept a referral fee, finder's fee, commission, or other remuneration for contracts awarded under the provisions of Section 20 of this Act.***

SECTION 23. A NEW SECTION OF KRS 18A.225 TO 18A.2284 IS CREATED TO READ AS FOLLOWS:

***(1) State employees as defined in KRS 18A.228 participating in the state employee benefit fund enumerated in KRS 18A.2281 shall be given at least three (3) alternative plans from which participation may be chosen. One (1) plan shall require no fixed deductible expenses and reasonable co-payment ratios.***

***(2) State employees whose income is at or below one hundred percent (100%) of the nonfarm income official poverty guidelines as determined by the United States Department of Health and Human Services, may choose health insurance benefits described in Section 20(2)(c) and (d) of this Act.***

SECTION 24. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 18 IS CREATED TO READ AS FOLLOWS:

***(1) Effective September 1, 1991, every full-time and part-time student enrolled in a public or independent institution of higher education located in the Commonwealth shall participate in a qualifying student health insurance program whose benefits are at least equal to these benefits enumerated in Section 20(2)(c) and (d) of this Act. For the purposes of this section, "part-time student" shall mean a student participating in at least seventy-five percent (75%) of the full-time curriculum. An institution may elect to allow students to waive participation in its student health insurance program or any part thereof, if it requires students waiving participation to certify in writing, prior to any academic year in which they will not participate in the institution's plan, that they are participating in a health insurance program having comparable coverages.***

***(2) The Department of Insurance, with the advice and consent of the Council on Higher Education, shall issue regulations to define qualifying student health insurance programs, to establish procedures to monitor compliance, and to implement the provisions of this section.***

***(3) Each public and independent institution of higher education shall submit an annual report to the Council on Higher Education detailing its procedures for complying with this section. Prior to the***

***implementation of this section, the Council on Higher Education shall submit a report to the Kentucky House and Senate committees on Appropriations and Revenue. The report shall include, but not be limited, to an analysis of the number of students lacking health insurance, the costs of the requirements of this section to the students and the public and independent institutions of higher education, and a proposed method for meeting the costs.***

SECTION 25. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 99 IS CREATED TO READ AS FOLLOWS:

***Except by previous agreement between providers and insurers, any health insurer failing to accept the uniform claim form developed pursuant to the provisions of KRS 304.14-135 as the sole instrument for reimbursement shall:***

***(1) For violations occurring prior to January 1, 1991, be fined one hundred dollars ($100) per claim form rejected; and***

***(2) For violations occurring after January 1, 1991, have its certificate of authority revoked in addition to being fined one hundred dollars ($100) per violation. The rejection of each claim form shall constitute a violation.***

Section 26. KRS 304.12-235 is amended to read as follows:

(1) All claims arising under the terms of any contract of insurance[~~, unless there is a proper assignment of benefits, or participating provider agreements exist,~~] shall be paid to the named insured ***person or health care provider*** not more than ***thirty (30)*** [~~sixty (60)~~] days from the date upon which notice and proof of claim, in the substance and form required by the terms of the policy, are furnished the insurer.

(2) If an insurer fails to make a good faith attempt to settle a claim within the time prescribed in subsection (1) of this section, the value of the final settlement shall bear interest at the rate of twelve percent (12%) per annum from and after the expiration of the ***thirty (30)*** [~~sixty (60)~~] day period.

(3) If an insurer fails to settle a claim within the time prescribed in subsection (1) of this section and the delay was without reasonable foundation, the insured ***person or health care provider*** shall be entitled to be reimbursed for his reasonable attorney's fees incurred. No part of the fee for representing the claimant in connection with this claim shall be charged against benefits otherwise due the claimant.

SECTION 27. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section:***

***(a) "Hospital indigent care assurance program" (HICAP) means the medicaid hospital indigent care assessment and payments program administered by the Department for Medicaid Services in accordance with this section.***

***(b) "Department" means the Department for Medicaid Services; and***

***(c) "Fund" means the hospital indigent care trust fund which consists of money collected from hospitals which is to be matched with funds from the federal medicaid program in accordance with the provisions of this section, and shall be exempt from any state budget reduction acts;***

***(d) "Hospital" means an acute care hospital, excluding licensed inpatient psychiatric and rehabilitation facilities licensed under KRS Chapter 216B; and***

***(e) "Medical assistance program" means the Kentucky medicaid program as described in KRS 205.510 through KRS 205.590 and state regulations pertaining thereto and the federal medicaid program as defined in Title XIX of the Social Security Act and federal regulations pertaining thereto.***

***(2) The commissioner of medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not be limited to, the provisions of this section.***

***(3) The requirements of this section shall apply only as long as federal funds under the medical assistance program are provided and the federal funds are at least equal to the amount of hospital assessments.***

***(4) The secretary for human resources shall promulgate administrative regulations necessary for the implementation of this section.***

***(5) Each year the department shall:***

***(a) Determine each hospital's total costs for services to patients as reported by the hospital to the department in the hospital's most recent medicaid cost report; and***

***(b) Multiply the hospital's total costs for services to patients by one-half percent (.5%) up to one percent (1%) as determined feasible by the department relative to the maximum distribution possible under federal regulations to determine each hospital's assessment which is subject to adjustment under subsection (9) of this section and which shall be deposited in the hospital indigent care trust fund.***

***(6) A hold harmless amount shall be held in reserve from the indigent care trust fund which is sufficient to assure that each hospital receives as payment from the fund an amount not less than the amount of that hospital's assessment. One percent (1%) of the assessments shall be reserved for costs of the department relating to administration of the hospital indigent care assurance program, such amount to be placed in a trust and agency account of the department established for this purpose. The department may maintain within the fund an undistributed contingency reserve of up to one million dollars ($1,000,000).***

***(7) (a) The department shall determine the percentage that each hospital's allowable medicaid days constitute of the sum of total allowable medicaid hospital days. The result shall be the indigent care factor for the hospital. As used in this section, days means the hospital's inpatient days covered by the medical assistance program for eligible recipients as reported to the department.***

***(b) The department shall multiply the indigent care factor for each hospital by the amount in the fund, taking into consideration the provisions of subsections (6), (7)(c), and (7)(d), plus the federal matching dollars. The resulting product, subject to adjustment under subsection (9), shall be the amount that each hospital is to receive under the program.***

***(c) Any hospital receiving public funds to offset unrecoverable costs from treating indigent patients, except medical assistance and maternal and child health funds, shall participate in the disproportionate share program described in this section as follows:***

***1. If a hospital receives other public funds to offset unrecoverable costs from treating indigent patients in an amount less than the amount the hospital would receive under the provisions of this section, the aggregate shall not exceed the amount the hospital would receive under the provisions of this section.***

***2. If a hospital receives other public funds to offset unrecoverable costs from treating indigent patients in an amount greater that the amount the hospital would receive under the provisions of this section, the hospital shall not receive an amount exceeding its assessment.***

***(d) If any hospital's assessment exceeds the amount it is determined eligible to receive under subsection (7)(b), the department shall pay to the hospital from the hold harmless reserve specified in subsection (6) an amount sufficient to bring the hospital's total payment under the program up to the assessment amount.***

***(8) Each hospital shall be notified in writing by the department of the results of determinations made pursuant to subsections (5)(b) and (7)(b) of this section. If no hospital submits a request for reconsideration under subsection (9) of this section, the determinations shall be considered final. Requests for reconsideration shall be subject to the provisions of subsection (9).***

***(9) Any hospital may submit a written request to the department for reconsideration of the determinations within twenty (20) days of notice of the determinations. The request shall be accompanied by written materials setting forth the basis for reconsideration. If one (1) or more hospitals submit a request, the department shall hold a public hearing within twenty (20) days from the last date on which reconsideration requests may be received. The department shall mail written notice of the date, time and place of the hearing to every hospital at least ten (10) days before the date of the hearing. On the basis of the evidence submitted to the department or presented at the public hearing, the department shall reconsider and may adjust the determinations.***

***(10) Within twenty (20) days of the public hearing, the department shall provide notice in writing to each hospital of the final determination of the amount it is required to pay and is eligible to receive after the adjustments made in accordance with subsection (9) of this section. Any hospital may appeal the decision of the department as to the amount it is required to pay or is eligible to receive to Franklin Circuit Court.***

***(11) (a) Each hospital shall submit its assessment to the department in equal quarterly installments according to a schedule adopted by administrative regulation. Variations in payment schedules shall be permitted as deemed necessary by the commissioner of medicaid services according to criteria set forth in administrative regulations.***

***(b) Any hospital that fails to make payments to the department on or before the schedule specified in this section or under any schedule for delayed payments established by the commissioner of medicaid services shall be fined not less than twenty thousand dollars ($20,000). The commissioner of medicaid***

***services shall waive the penalties provided for in this subsection for good cause shown by the hospital as determined in accordance with criteria set forth in administrative regulations.***

***(c) The hospital indigent care trust fund shall be established in the state treasury and all payments from hospitals under this section, excluding the administrative amount provided for in subsection (6), shall be deposited in the state treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. The department shall maintain records that show the amount of money in the fund at any time that has been paid by each hospital and the amount of investment earnings on that amount. All moneys credited to the fund shall be used solely to make payments to hospitals and shall not be used in lieu of regular payments to hospitals under the medical assistance program. A hospital shall not have its most recent non-disproportionate share payment rate reduced as a result of this program.***

***(12) The department shall make quarterly disbursements from the fund to each hospital within thirty (30) days from the time of the hospital assessment payment. All disbursements to hospitals shall be conditional on:***

***(a) Expiration of the time of judicial appeals or on court determinations; and***

***(b) The availability of sufficient moneys in the fund.***

***(13) The department shall conduct annual audits of the hospital indigent care assurance program to determine that amounts received from or paid to hospitals were correct. If an audit conducted by the department of the amount of payments made and received by hospitals identified amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should have not received but did receive, or should have received but did not receive, the department shall:***

***(a) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received; or***

***(b) Take action to recover from a hospital any amounts the audit reveals it should have paid but did not pay or that it should not have received but did receive.***

***Payments made under subsection (13)(a) of this section shall be made from the fund. Amounts recovered under subsection (13)(b) of this section, less the federal matching share or the state administrative share as specified in subsection (6), as applicable, shall be deposited to the credit of the fund.***

***(14) Hospitals participating in the provisions of this section shall:***

***(a) Display prominently signs which read as follows: "This hospital will accept patients regardless of race, creed, ethnic background or ability to pay"; and***

***(b) Accept benefits of state health insurance coverage described in Section 23 of this Act and KRS 18A.2281.***

SECTION 28. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section unless the context requires otherwise:***

***(a) "Case manager" means an employee of the area development district or an agency under contract with the area development district who shall assist any functionally impaired person in identifying and accessing the long term care services most appropriate to the individual's social and medical needs.***

***(b) "Functionally impaired person" means any person who is unable to perform without assistance any of the activities of daily living including, but not limited to dressing, bathing, toileting, transferring, or feeding, or any of the instrumental activities of daily living including but not limited to meal preparation, laundry, housecleaning, budgeting, and shopping.***

***(2) There shall be established within the Cabinet for Human Resources a long-term care case management demonstration program to consolidate and coordinate all services provided or funded by the cabinet with respect to long-term care, conducted in at least three (3) area development districts. This demonstration program shall serve as the focal point for the provision of all services provided to functionally impaired persons to assure that services are consistent with the following goals:***

***(a) That functionally impaired persons be allowed to live independently at home or with others as long as the citizen desires without requiring inappropriate or premature institutionalization;***

***(b) That services provided or funded by the cabinet promote independent living by functionally impaired persons and prevent or minimize illness or social isolation;***

*(c) That institutional services be used only as a last resort when in-home or community based support services are not available or are not adequate to meet the needs of functionally impaired persons;*

*(d) That a single entry point for all services for functionally impaired persons be available to all persons in need of information about or access to the services; and*

*(e) That the use of informal providers of care, such as friends and relatives of functionally impaired persons, be used as long as possible before paid services are utilized.*

*(3) The following programs and services shall be included in the long-term care case management demonstration program:*

*(a) Hospital-based long term care services including dual licensed beds, swing beds and physical rehabilitation services, skilled nursing facility services, intermediate care facility services, nursing facility services, home health services, and home and community based waiver services funded by the Kentucky medical assistance program;*

*(b) In-home and community based services for elderly persons funded under the Older Americans Act (42 U.S.C. Section 3001 et seq.) and Title XX of the Social Security Act (42 U.S.C. Sections 1397-1397f);*

*(c) Services provided under the home care program pursuant to KRS 205.460; and*

*(d) Personal care home services or domiciliary care funded by supplemental payments to persons receiving supplemental security income benefits pursuant to KRS 205.245.*

*(4) The long-term care case management demonstration program shall employ a system of case management to assure that appropriate services are provided to all persons using or applying for the services set forth in subsection (3) of this section, and that the services are consistent with the goals set forth in subsection (2) of this section. All persons applying for these services shall be assigned a case manager. The duties of the case manager shall include preparation of a general plan of care, based on the person's need for services, arranging placements or other needed services or equipment, coordination and management of the applicant through the eligibility process for these services, and reviewing each case on a periodic basis to assure the plan of care is being followed. Case management shall not include the determination of eligibility for medicaid covered services, long-term care facility pre-admission reviews, level of care determinations for purposes of medicaid reimbursement or peer review activities. The general plan of care shall not replace a daily care plan prescribed by a physician for treatment of a person in a hospital or long-term care facility or receiving home health services. The general plan of care shall identify the categories of services or type of placement required and the providers of the services. Case managers shall serve as advocates for applicants for the services set forth in subsection (3) of this section, and shall interact with the existing administrative structure within the Cabinet for Human Resources to meet the goals stated in subsection (2) of this section. Patients discharged from a hospital to a long-term care facility shall receive case management services in the hospital on a timely basis or immediately after admission to a long-term care facility. The goal of each case plan shall be the provision of services in the least restrictive setting designed to best meet the individual needs of the functionally impaired person. When persons are determined to need services to maintain independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member or volunteers.*

*(5) The cabinet, through the long-term care demonstration program, shall provide access to information, counseling and screening as appropriate, for persons potentially in need of long-term care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. The cabinet may charge a fee for providing information, counseling and screening services based on the client's ability to pay.*

*(6) The secretary for human resources may promulgate administrative regulations necessary to implement the long-term care demonstration program.*

SECTION 29. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

*No later than August 1, 1990, the Cabinet for Human Resources shall begin contracting to construct and operate, or lease and operate the following:*

*(1) A one hundred (100) bed inpatient mental health facility in eastern Kentucky;*

*(2) Twelve (12) child care centers with a minimum of one (1) center in each of the seven (7) Kentucky congressional districts;*

*(3) Four (4) eight (8)-bed group homes for persons with mental retardation;*

***(4) Two (2) one hundred (100) bed personal care homes; and***

***(5) Twelve (12) senior citizens centers with a minimum of one (1) center in each of the seven (7) Kentucky congressional districts.***

SECTION 30. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***The Kentucky Development Finance Authority shall cooperate with the Cabinet for Human Resources in the facilitation of Section 29(1) of this Act.***

SECTION 31. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

***This Act may be cited as the "Health Care Reform Act of 1990."***

Section 32. The following KRS sections are repealed:

| | |
|---|---|
| 211.290 | Rural Kentucky medical scholarship fund. |
| 211.300 | Declaration of legislative policy and definition for KRS 211.300 to 211.330. |
| 211.305 | Applications for medical education loans and scholarships. |
| 211.310 | Maximum amount and conditions of loan or scholarship. |
| 211.315 | Execution of contract for loan or scholarship. |
| 211.320 | Cancellation of contract — Repayment of loan or scholarship. |
| 211.325 | Contracts with medical schools. |
| 211.330 | Trust or agency fund. |

Section 33. There is appropriated from the General Fund $605,000 for fiscal year 1990-91, and $2,867,500 for fiscal year 1991-92 to effectuate the provisions of Section 15 of this Act.

Section 34. There is appropriated from the General Fund $105,000 for fiscal year 1990-91 and $410,000 for fiscal year 1991-92 to effectuate the provisions of Section 16 of this Act.

Section 35. There is appropriated from the General Fund $825,00 for fiscal year 1990-91 and $1,236,321 for fiscal year 1991-92 to effectuate the provisions of Section 28 of this Act.

Section 36. (1) The State Property and Buildings Commission is authorized and directed to issue bonds on behalf of the Cabinet for Human Resources in the net amount of $5,500,000 for the construction of facilities described in Section 29(2), (3), (4) and (5) of this Act.

(2) There is appropriated the amount of $5,500,000 from the Bond Fund to the Capital Construction Fund on behalf of the Cabinet for Human Resources for construction of facilities described in Section 29 of this Act.

(3) There is appropriated from the General Fund to the Cabinet for Human Resources the amount of $299,000 for fiscal year 1990-91 and $598,000 for fiscal year 1991-92 for lease rental payments to satisfy the debt service on the bonds authorized under subsection (1) of this section, and $2,000,000 for fiscal year 1991-92 for operating capital for the mental health facility specified in Section 29(1) of this Act.

**SB 257,** AN ACT relating to highways.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 177.035 is amended to read as follows:

Whenever the Kentucky state Department of Highways shall determine that it is necessary that any fireplugs, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, belonging to any municipality or a municipally-owned utility, or any water district established pursuant to KRS Chapter 74, ***any water association established pursuant to KRS Chapter 273,*** or any sanitation district established pursuant to KRS Chapter 220, must be removed or relocated on, along, over or under a highway, in order to construct, reconstruct, relocate or improve any such highway, the municipality or the municipally-owned utility or the water district or the sanitation district shall relocate or remove same in accordance with the order of the Department of Highways; and the costs and expenses of such relocation or removal, including the costs of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interest in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the Department of Highways as a part of the cost of improving or constructing such highways.

**SB 319**, AN ACT relating to budget administration.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 11.250 is amended to read as follows:

(1) The governor-elect or a delegate appointed by him shall be entitled to examine the budget request of the executive branch of government, and the Finance and Administration Cabinet shall provide him with every practicable facility for reviewing and familiarizing himself with its contents. The governor-elect shall be entitled to a seat in all hearings thereon. He shall be furnished a copy of the budget request of each executive branch budget units. The budget director shall make available to the governor-elect so much as he requests of the information upon which the Governor's budget recommendation is based.

(2) After a review of the executive branch ***draft budget bill*** [~~joint budget resolution~~], the governor-elect may prepare revisions and additions thereto. The budget director shall assist, upon request, in the preparation of such revisions and additions.

(3) The budget director shall have as many copies of the revised budget recommendation of the executive branch of government printed as the governor-elect requests.

Section 2. KRS 45.229 is amended to read as follows:

(1) No state officer or budget unit shall, after the close of any fiscal year, incur, or vote, order or approve the incurring of, any obligation or expenditure under any appropriation for that fiscal year, and no expenditure shall be made from or charged to any appropriation for any fiscal year that has expired at the time the obligation of the expenditure was incurred.

(2) The Finance and Administration Cabinet may, for a period of thirty (30) days after the close of any fiscal year, draw warrants against the available balances of appropriations made for that fiscal year, for the payment of expenditures incurred during that year or in fulfillment of contracts properly made during that year, but for no other purpose. After the expiration of thirty (30) days from the beginning of each fiscal year, all balances of appropriations for the prior fiscal year shall lapse to the surplus account of the general fund or road fund unless a ***branch budget bill*** [~~joint budget resolution~~] provides that the appropriation from which the expenditures shall be paid does not lapse. No further payments shall be made on any claims on account of expenditures of the prior fiscal year.

Section 3. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a ***branch budget bill*** [~~joint budget resolution~~] to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a ***branch budget bill*** [~~joint budget resolution~~] to receive and disburse contributions, gifts, donations, devises and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all such receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the chief justice and the Legislative Research Commission for their respective branches, any budget unit which, as

an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from such approved charges shall be credited to the surplus account of the general fund.

(6) The Department of Information Systems may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless such services or materials are required by law to be furnished gratuitously. The receipts from such authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, Department of Information Systems' operating account.

Section 4. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The Governor shall include in the executive branch budget recommendation and in the draft ***branch budget bill*** [~~joint budget resolution~~] for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1980 and for each biennium thereafter, a recommended state capital construction program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;

2. The justification for the project;

3. Its estimated completion date;

4. The total estimated cost of completing the project;

5. The estimated cost of the project during the biennium;

6. The recommended sources of funds for the entire project; and

7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The ***branch budget bill*** [~~joint budget resolution~~] for the executive branch shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6. and 7. of subsection (2)(b) of this section.

(4) During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in the executive branch budget recommendation and in the ***branch budget bill*** [~~joint budget resolution~~] for the executive branch enacted by the General Assembly, except as provided in KRS 45.770 and 45.780.

(5) The recommended program for the purchase of major items of equipment shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(6) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The ***branch budget bill*** [~~joint budget resolution~~] for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4. and 5. of subsection (5)(b) of this section.

(7) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the capital construction program. Moneys appropriated for that project or item of equipment but not allotted, and moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund.

(8) Projects and major items of equipment disapproved under subsection (7) of this section shall be terminated.

(9) During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in the executive branch budget recommendation and in the appropriation act or acts enacted by the General Assembly and authorizing the purchase, except as provided in subsection (10) of this section and in KRS 45.770 and 45.780.

(10) A major item of equipment to be used for medical, scientific or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts enacted for the current biennium subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the capital projects and bond oversight committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(11) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The Finance and Administration Cabinet shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(12) The General Assembly may provide in a budget bill for the capital construction and equipment purchase contingency fund to be used to advance funds to projects authorized to be financed by bonds, and to finance feasibility studies for projects which may be contemplated for future funding.

(13) On or before September 1, the secretary of the Finance and Administration Cabinet shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation;

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

9. Justification for the project or major item of equipment;

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 5. KRS 48.010 is amended to read as follows:

(1) "Account" is a technical accounting term meaning a formal record in which related transactions and events, (i.e., expenditures, receipts, encumbrances, and inter-account charges or credits) which occur during a specific period of time, are summarized and accumulated.

(2) "Activities" means those actions or services performed by a budget unit which depict in a quantitative manner the fulfillment of lawful purposes.

(3) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in this chapter.

(4) "Appropriation act" means any act of the General Assembly that authorizes the expenditure of public funds, other than a ***branch budget bill*** [~~joint budget resolution~~] provided for by this chapter.

(5) "Budget" means the complete financial plan for each fiscal year contained in a ***branch budget bill*** [~~joint budget resolution~~] provided for by this chapter.

(6) "Branch budget recommendation" means the recommendations to the General Assembly of the Governor for the executive branch, the chief justice for the judicial branch and the Legislative Research Commission for the legislative branch, accompanied by an estimate of the receipts and expenditures for each branch and accompanying explanations provided for by this chapter for the next two (2) fiscal years.

(7) "Budget unit request" means a detailed statement of the financial requirements of a budget unit by principal budget class, and an estimate of its receipts and expenditures for the next two (2) fiscal years, with the accompanying explanations provided for by this chapter.

(8) "Budget unit" means any subdivision of any branch of government, however designated, for which appropriations are requested.

(9) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, equipment or other permanent properties, or in their construction, development or permanent improvement.

(10) "Disbursement" means cash actually paid out for any purpose.

(11) "Employee" means the lawful incumbent of a position.

(12) "Expenditure" means cash actually paid out or an exchange of value for any purpose.

(13) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources or both together with all related liabilities, obligations, reserves, and equities

which are segregated for the purpose of carrying on specific activities in accordance with legal restrictions or other limitations, to include:

(a) "General fund." This fund shall consist of all moneys, not otherwise restricted, available for the general operations of state government.

(b) "Bond debt related fund." This fund shall consist of all outstanding bonded debt liability and related funds of state government, including all revenue bonds issued by or approved by the state property and buildings commission. Accounts necessary to assure integrity of trust indentures shall be maintained. Funds appropriated for debt service shall be allotted to these accounts and any excess of appropriation over net requirements for principal, interest and reserves for any issue shall lapse to the surplus account of the general fund if general funds are a part of the appropriation for that budget unit.

(c) "Capital construction fund." This fund shall consist of moneys appropriated under the provision of KRS 45.750 to 45.800 for capital construction projects, except road construction projects, for all budget units of state government.

(d) "Federal fund." This fund shall include all receipts from the federal government for any purpose.

(e) "Fiduciary fund." This fund shall consist of moneys held by a budget unit in a trustee or agency capacity.

(f) "Restricted fund." This fund shall consist of budget unit receipts restricted as to purpose by statute.

(g) "Road fund." This fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and moneys derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways. A separate record of each source of receipt within this fund group shall be maintained.

(14) "Principal budget class" includes the following:

(a) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, or other permanent properties, or in their construction, development or permanent improvement estimated to cost less than two hundred thousand dollars ($200,000), and items of equipment or other capital items estimated to cost less than fifty thousand dollars ($50,000).

(b) "Debt service" means the amount of money required to pay the interest, principal and required contributions to accumulate moneys for future retirement of lawfully incurred debt.

(c) "Grants, loans or benefits" means expenditures for any grant, aid, loan or relief payment to individuals, organizations or jurisdictions not otherwise classified pursuant to this chapter.

(d) "Operating expenses" means expenditures directly attributable to the operation of state government not otherwise classified pursuant to this chapter.

(e) "Personnel costs" means the salaries, wages, benefits (including but not limited to, employer share of FICA, retirement contributions, insurance, unemployment insurance, workers' compensation), and increments of all officers and employees, and payment to persons awarded personal service contracts.

(15) "Receipts" includes the following:

(a) "Nonrevenue receipts" means values accruing that either decrease an asset or create a liability.

(b) "Operating receipts" means cash received by a budget unit for services rendered, or from the sale of materials, goods or supplies created by the budget unit or of items held for resale.

(c) "Revenue receipts" means values accruing as a result of taxation or revenues, or both, and without resultant increase in liabilities or decrease in assets, whether such values are represented by cash actually received or by amounts due and payable, or partly by each.

Section 6. KRS 48.100 is amended to read as follows:

(1) A branch budget recommendation shall be submitted to the General Assembly by the Governor for the executive branch, the chief justice for the judicial branch and the Legislative Research Commission for the legislative branch. The budget recommendations shall be submitted to the General Assembly on or before the tenth (10th) legislative day of each regular session, except in the year following the election of the Governor when the budget recommendations shall be submitted not later than the fifteenth (15th) legislative day of a regular session.

(2) Budget recommendations shall be submitted on the first (1st) day of any extraordinary session called for the purpose of amending a ***branch budget bill*** [~~joint budget resolution~~].

Section 7. KRS 48.110 is amended to read as follows:

Each branch budget recommendation shall contain a complete financial plan for the branch of government for each of the next two (2) fiscal years. Each branch budget recommendation shall include:

(1) A budget message signed by the Governor, the chief justice or the co-chairmen of the Legislative Research Commission for their respective branches of government.

(2) Statements of income and receipts for each of the two (2) fiscal years last concluded, and the estimated income and receipts, for each budget unit of the branch of government, of the current fiscal year and of each of the next two (2) fiscal years. The statements of income and estimated income shall be itemized by budget units and funds, by sources, and shall show separately receipts from current income, receipts from refunds and reimbursements of expenditures, receipts from sale of assets, and receipts on account of the income of prior years, all detailed by sources. Existing sources of income and receipts shall be analyzed as to their equity, productivity and need for revision, and any proposed new sources of income or receipts shall be explained.

(3) A statement of the surplus in any account and in any special fund of the branch of government. If a surplus exists in any account of the branch of government the statement shall show the excess of all current assets over all current liabilities as of the beginning of each of the two (2) fiscal years last concluded, and all changes in these accounts during each of such two (2) fiscal years.

(4) A statement as of the close of the last completed fiscal year and as of the close of the current fiscal year showing, for each budget unit of the branch of government the total funded debt, the value of sinking fund assets, the net funded debt, the floating liabilities as of the end of the current fiscal year, and the total debt as of the close of the last completed fiscal year and as of the close of the current fiscal year.

(5) Summary and detailed comparative statements of expenditures itemized by budget unit for each of the two (2) fiscal years last concluded and requests for appropriations by funds or accounts, the budget of the current year, and the requests of each budget unit and the recommendations for appropriations for each of the next two (2) fiscal years. Following the lists of actual and proposed expenditures of each budget unit there shall be a detailed explanation of the actual and proposed expenditures, to include activities, beneficiaries and expected results of the programs or services of the budget units.

(6) A draft of the proposed ***branch budget bill*** [~~joint budget resolution~~] containing recommendations of the branch of government for appropriations for the next two (2) fiscal years, and drafts of such revenue and other acts as may be recommended for putting into effect the proposed financial plan. The recommended appropriations for ordinary recurring expenses shall be itemized by budget units, and the amount of each of such recommended appropriation shall be the total of the recommended amounts for the budget units. Recommended appropriations for extraordinary expenses and capital outlays shall be itemized in the proposed ***branch budget bill*** [~~joint budget resolution~~] for the branch by budget unit and the title of each budget unit shall be so worded as to limit each appropriation to the specific use or purpose intended. The recommended appropriation for each budget unit shall be specified in a distinct and separate section of the proposed ***branch budget bill*** [~~joint budget resolution~~] for the branch. The total amount of appropriations recommended from any fund shall not exceed the cash resources estimated to be available and to become available to meet expenditures under such appropriations.

(7) A certificate of the branch of government as to the accuracy of the statements of financial condition, of income and receipts, and of expenditures.

(8) Such other information as is deemed desirable, or is required by law or regulation.

Section 8. KRS 48.120 is amended to read as follows:

(1) By October 15 of each odd-numbered year the Finance and Administration Cabinet shall provide to each branch of government preliminary detailed revenue estimates for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.

(2) On or before the fifteenth (15th) legislative day, the Finance and Administration Cabinet shall certify and present to the General Assembly the final detailed revenue estimates for these funds.

(3) Appropriations made in the ***branch budget bill*** [~~joint budget resolution~~]s enacted for each branch of government shall be based upon the revenue estimates presented to the General Assembly by the Finance and Administration Cabinet under subsection (1) of this section, as modified by the appropriations committees of the General Assembly.

Section 9. KRS 48.130 is amended to read as follows:

(1) The branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, when projected or actual tax receipts accruing to the general fund or road fund are at least two and one-half percent (2 1/2%) but not more than five percent (5%) less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120.

(2) (a) In recommending budget reductions, the governor, the chief justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;

(b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;

(c) A layoff of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of KRS 18A.1132; and

(d) A layoff of state employees in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of KRS 18A.1132.

(3) The plan shall be enacted as modified by the General Assembly in each ***branch budget bill*** [~~joint budget resolution~~].

(4) In the event of an actual or projected deficit in tax receipts provided for by this section, the Finance and Administration Cabinet shall notify all branches of government:

(a) If funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the ***branch budget bill*** [~~joint budget resolution~~], and the governor, the chief justice, and the Legislative Research Commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the ***branch budget bill*** [~~joint budget resolution~~]; and

(b) In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the ***branch budget bill*** [~~joint budget resolution~~] shall not be implemented.

(5) In the event of an actual or projected deficit in tax receipts provided for by this section of less than two and one-half percent (2 1/2%), the governor, the chief justice, and the Legislative Research Commission shall implement budget reductions for their respective branches on their own initiative.

(6) The budget reduction plan shall provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any such reduction of the annual increment shall be uniform for all employees.

(7) If general fund or road fund tax receipts increase over the estimated deficits, then services shall be restored in the reverse order of the reduced services.

(8) This section shall not preclude the General Assembly, in regular or special session, from amending a ***branch budget bill*** [~~joint budget resolution~~] requiring budget reductions nor shall it preclude the Governor from calling a special session of the General Assembly at any time the budget reduction plan is in effect.

Section 10. KRS 48.140 is amended to read as follows:

(1) The branch budget recommendation submitted by the governor, the chief justice, and the Legislative Research Commission shall include a plan for the expenditure of general or road fund tax receipts up to two and one-half percent (2 1/2%) in excess of the tax receipts estimates for the funds as determined by subsection (3) of KRS 48.120.

(2) The plan shall contain provisions for the expenditure of such excess general fund and road fund tax receipts. This plan shall provide for additional moneys for nonrecurring expenditures for which an appropriation was not made in a ***branch budget bill*** [~~joint budget resolution~~], or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded. No expenditure shall be recommended for any other purpose.

(3) In lieu of recommending the expenditure of such sums, the governor, the chief justice, or the legislative research commission, may elect to recommend the return of such sums or any portion thereof to the surplus account of the general fund or road fund for investment until such time as it is appropriated by the General Assembly.

(4) A plan for the expenditures of such surplus funds shall be enacted as modified by the General Assembly in each ***branch budget bill*** [~~joint budget resolution~~].

(5) In the event of a surplus in tax receipts provided for by this section, the Finance and Administration Cabinet shall notify all branches of government.

(6) Any general or road fund receipts in excess of two and one-half percent (2 1/2%) of the tax revenue estimates determined under subsection (3) of KRS 48.120, or in excess of any appropriation made in a ***branch budget bill*** [~~joint budget resolution~~] applying such receipts shall not be expended but shall accrue to the surplus account of the general fund or road fund for investment until appropriated by the General Assembly.

(7) Unless required by the budget reduction provisions in a ***branch budget bill*** [~~joint budget resolution~~] no funds shall be transferred from one budget unit to another budget unit.

(8) Surplus funds in any account, unless a statute requires otherwise, shall lapse to the surplus account of the general fund for investment until appropriated by the General Assembly.

(9) Funds in the surplus account of the general fund may be used for current expenditures as authorized by the budget reduction provisions of a ***branch budget bill*** [~~joint budget resolution~~].

Section 11. KRS 48.185 is amended to read as follows:

(1) The provisions of any other law notwithstanding, the Governor shall include in the budget recommendation for the executive branch and in the draft ***branch budget bill*** [~~joint budget resolution~~] for the executive branch submitted to each regular session of the General Assembly for the biennium period beginning July 1, 1980, and for each biennium thereafter, recommendations for appropriations from the general fund to be made by the General Assembly to the area development fund established by KRS Chapter 42.

(2) The amount to be recommended for the appropriation to the area development fund shall be four and four-tenths percent (4.4%) of the severance tax estimate for each fiscal year of the biennium.

Section 12. KRS 48.210 is amended to read as follows:

From the time of the submission of the budget recommendation of each branch of government to the house of representatives until the enactment of all ***branch budget bill*** [~~joint budget resolution~~]s, representatives of each branch of government shall be at the disposal of the General Assembly and its appropriations committees and shall devote as much of their time as may be required to the work of those committees, under the direction of their respective chairmen. The Finance and Administration Cabinet shall provide such additional assistance to each branch of government as may be required.

Section 13. KRS 48.300 is amended to read as follows:

(1) The financial plan for each fiscal year as presented in a branch budget recommendation shall be adopted, with such modifications as are made by the General Assembly, by the passage of a budget bill and such revenue and other acts as are necessary for the purpose.

(2) Prior to the passage of a budget bill and any other acts necessary, the appropriations committees of the General Assembly shall prepare a budget memorandum. The budget memorandum shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees.

***(3) In administering the provisions of a branch budget bill, a branch head shall interpret provisions of the branch budget bill in conformity with the budget memorandum.***

Section 14. KRS 48.310 is amended to read as follows:

(1) [~~A budget bill shall be considered as subordinate to the Kentucky Revised Statutes and temporary in nature.~~] No provision of a budget bill shall be effective beyond the second fiscal year from the date of its enactment. A budget bill enacted at a special session of the General Assembly shall not be effective past July 1, of the year in which the next regular session takes place.

(2) ***A*** [~~No~~] budget bill ***may*** [~~shall~~] contain language which exempts the budget bill or any appropriation or the use thereof from the operation of a statute ***for the effective period of the budget bill.*** [~~Any language in a budget bill in violation of this section shall be null and void.~~]

Section 15. KRS 48.500 is amended to read as follows:

(1) Subject to the provisions of this section, when the General Assembly is not in session, all questions that arise as to the meaning of items in a ***branch budget bill*** [~~joint budget resolution~~] shall be decided by the Finance and Administration Cabinet, by the chief justice and by the Legislative Research Commission for their respective branches of government.

(2) A decision made under subsection (1) of this section shall conform to the appropriate budget memorandum provided for by KRS 48.300.

(3) The secretary of the Finance and Administration Cabinet, the chief justice, and the Legislative Research Commission shall transmit decisions made under subsection (1) of this section to the interim joint committee on appropriations and revenue of the Legislative Research Commission and shall include, in detail, the reasons for such decisions.

(4) If the interim joint committee on appropriations and revenue disapproves a decision made under this section, the decision shall not be implemented unless it is:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed, in writing, in detail, within thirty (30) days of the committee's disapproval, that a determination has been made not to comply with the objections of the committee.

Section 16. KRS 48.620 is amended to read as follows:

(1) Allotments shall be made as provided by the allotment schedule, and may be revised upon the written certification of the governor, the chief justice and the Legislative Research Commission for their respective branches of government. No revisions of the allotment schedule may provide for an allotment or allotments in excess of the amount appropriated to that budget unit in a ***branch budget bill*** [~~joint budget resolution~~], or for expenditure for any other purpose than specified in a ***branch budget bill*** [~~joint budget resolution~~] and a budget memorandum provided for by KRS 48.300.

(2) Revisions of allotments under this section shall be reported and reviewed as provided by subsection (4) of KRS 48.500.

(3) When the actual tax receipts accruing to the general fund or road fund, as appropriate, do not permit all the allotments provided for by the schedules of allotments of all branches of government, the secretary of the Finance and Administration Cabinet shall notify all branches of government and each branch shall take appropriate action concerning allotments.

(4) This subsection shall not apply in the event of a projected or an actual deficit in tax receipts of the general or road funds as determined by KRS 48.130.

Section 17. KRS 48.700 is amended to read as follows:

There is hereby created in the general fund of the State Treasury a surplus fund account subject to the following terms and conditions:

(1) It shall contain all surplus tax receipts accruing to the general fund as provided by subsection (6) of KRS 48.140.

(2) It shall contain all funds lapsed from general fund receipts not otherwise appropriated.

(3) It shall contain all receipts from the sale of surplus property purchased with general fund tax receipts and not otherwise appropriated.

(4) It shall contain all general fund tax revenues in excess of estimates.

(5) It shall contain all moneys saved as a result of a reorganization of state government operations funded by the general fund.

(6) Funds in the account shall be invested at interest and the interest shall also accrue to this account.

(7) It shall contain any other funds which are required by law or regulation to accrue to the surplus account of the general fund.

(8) No expenditures shall be made from this account unless appropriated by the General Assembly or unless required by the budget reduction provisions of a ***branch budget bill*** [~~joint budget resolution~~], or as provided by KRS 48.130.

Section 18. KRS 48.710 is amended to read as follows:

There is hereby created in the road fund of the State Treasury a surplus fund account subject to the following terms and conditions:

(1) It shall contain all surplus tax receipts accruing to the road fund as provided by subsection (6) of KRS 48.140.

(2) It shall contain all funds lapsed from moneys originating from road fund receipts;

(3) It shall contain all receipts from the sale of surplus property purchased with road fund receipts;

(4) It shall contain all road fund receipts in excess of estimates;

(5) It shall contain all moneys saved as a result of a reorganization of state government operations funded by the road fund;

(6) Funds in the account shall be invested at interest and the interest shall also accrue to this account;

(7) It shall contain any other funds which are required by law or regulation to accrue to the surplus account of the road fund;

(8) No expenditures shall be made from this account unless appropriated by the General Assembly or unless required by budget reduction provisions of a ***branch budget bill*** [~~joint budget resolution~~], or as provided by KRS 48.130.

Section 19. KRS 56.870 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, prior to the issuance and sale of any definitive bonds or temporary bonds, or the securing of any interim financing through bond anticipation notes, loan agreements or by any other means, each agency, authority, board, corporation, cabinet, commission, or any other agency or instrumentality of the Commonwealth shall first obtain approval of any such financing from the General Assembly, sitting in regular or special session. Such approval shall be evidenced by the adoption by the General Assembly of a specific act or the adoption by the General Assembly of the biennial ***branch budget bill*** [~~joint budget resolution~~] which shall specify the purposes for such financing.

(2) The biennial ***branch budget bill*** [~~joint budget resolution~~] shall also establish a ceiling for revenue bonds which require a general fund appropriation to retire.

(3) The provisions of subsection (1) of this section shall not be applicable to the financing of any project in any case where the project for which financing is proposed is certified by the governor, as hereinafter provided, to be of such type as to independently produce revenues sufficient to fully meet debt service on such financing so that no appropriation of state general funds will be required. Such certification shall be made in writing by the secretary of the Finance and Administration Cabinet to the statutory head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission.

Section 20. KRS 134.400 is amended to read as follows:

(1) All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the revenue cabinet, sheriffs and other state, county or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall be paid into the State Treasury and credited as provided for the twenty percent (20%) penalty in subsection (2) of this section.

(2) The twenty percent (20%) penalty collected on taxes due the state, county, school or other taxing district shall be paid into the State Treasury. One-fourth (1/4) of the moneys thus received shall be credited to the general expenditure fund. The remaining three-fourths (3/4) shall also be credited to the general expenditure fund unless the General Assembly, in its biennial ***branch budget bill*** [~~joint budget resolution~~], provides that it be credited to a fund to be designated and known as the delinquent tax fund, in which case it shall be so credited and so much thereof as may be necessary shall be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. All salaries, fees and expenses authorized by the laws relating to the collection of delinquent taxes and the assessment of omitted property, except the fees of county attorneys, shall be payable out of the delinquent tax fund upon certifications or requisitions of the secretary of revenue.

Section 21. KRS 151.560 is amended to read as follows:

(1) There is hereby created the flood control advisory commission, which shall be composed of fifteen (15) members as follows:

(a) The Governor shall appoint six (6) members: two (2) state legislators, one (1) from the senate and one (1) from the house of representatives; two (2) mayors; and two (2) county judges/executive; and

(b) The Legislative Research Commission shall appoint nine (9) members, one (1) from each of the following river basins: Big Sandy; Licking; Kentucky; Salt; Green; Ohio River Main Stem; Tennessee; Mississippi; and Upper Cumberland.

(2) Each member shall serve a four (4) year term, except the first commission members appointed by the Legislative Research Commission who shall serve terms as follows:

(a) Three (3) members shall serve for terms of two (2) years from the date of appointment;

(b) Three (3) members shall serve for terms of three (3) years from the date of appointment; and

(c) Three (3) members shall serve for terms of four (4) years from the date of appointment.

(3) Commission members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Any member who misses three (3) consecutive meetings of the commission shall be deemed to have vacated the office. The commission shall declare the office vacant and the office shall be filled as provided by subsection (3) of this section.

(5) Two (2) of the commission members shall be elected by the commission to serve on the water resources authority of Kentucky, which service shall cease with the expiration of the term of appointment on the commission, if not sooner.

(6) The commission shall annually elect one of its members as chairperson. The commission shall meet quarterly or more often if necessary. A quorum for the transaction of business shall be nine (9) members, and a majority of the members present at a meeting may take action on any matter legally before it.

(7) Members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties.

(8) The commission shall employ an executive director, who shall be qualified on the basis of administrative ability in water resources management. The commission, on the advice of the executive director, shall employ additional staff, as required, who are knowledgeable in such areas as hydrology, geology, engineering, municipal planning, regional planning, economics, and secretarial science. The commission may engage, as needed, the professional services of individuals on a contractual basis.

(9) The commission shall be attached for administrative purposes to the Finance and Administration Cabinet.

(10) The commission shall receive an annual appropriation from the general fund and shall prepare a line-item budget, which shall appear as a line item in the executive branch biennial budget recommendation and in the biennial ***branch budget bill*** [~~joint budget resolution~~].

(11) The commission may receive private funds, federal grants, and discretionary funds from the natural resources and environmental protection cabinet.

(12) The commission shall issue rules and regulations as necessary to control internal procedures. The commission shall establish by regulation the boundary for each river basin referred to in subsection (1)(b) of this section.

Section 22. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

(a) Sue and be sued in its corporate name;

(b) Adopt a corporate seal and a symbol;

(c) Hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

(d) Appoint agents upon which process may be served;

(e) Enter into written agreements with one (1) or more other states for the operation, marketing and promotion of a joint lottery or joint lottery games;

(f) Acquire real property and make improvements thereon. Such acquisitions shall be reported to the capital projects and bond oversight committee for its review and determination in accordance with KRS 45.750 to 45.810; and

(g) Make, execute and effectuate any and all agreements or contracts including:

1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery, provided that proposed purchases of major items of equipment estimated to cost fifty thousand dollars ($50,000) or more shall be reported to the capital projects and bond oversight committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810, and contracts for personal service shall be reviewed in accordance with KRS 45.700 to 45.720; however, the corporation shall not be required to include purchases of equipment in the executive branch budget recommendations and the draft ***branch budget bill*** [~~budget resolution~~] submitted to each regular session of the General Assembly pursuant to KRS 48.130.

2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

(2) The corporation shall:

(a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

(b) Submit monthly and annual reports to the governor, the president pro tempore of the senate, and the speaker of the house of representatives containing financial statements which include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;

(c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation; and

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter.

Section 23. KRS 171.280 is amended to read as follows:

The revolving fund established by the ***branch budget bill*** [~~joint budget resolution~~], consisting of all moneys collected under the provisions of KRS 171.230 to 171.300 shall be designated as the librarian's certification fund. All money credited to the fund shall be used for the support of the board for certification of librarians, and for the purposes of KRS 171.230 to 171.300.

Section 24. KRS 175.780 is amended to read as follows:

In order to provide for the construction, reconstruction, and relocation of economic development road projects, the authority is hereby authorized and empowered, subject to the limitations contained in the biennial ***branch budget bill*** [~~joint budget resolution~~], under and pursuant to the terms and provisions of a written agreement or agreements with the department, to construct, reconstruct, relocate, finance, and operate economic development road projects, to lease such projects to the department, and to issue economic development road revenue bonds or notes of the authority to finance such projects. In the planning, construction and financing of any economic development road project, the authority and the department shall, subject to the provisions of KRS 175.750 to 175.810, have and use all authority, procedures and rights provided by the provisions of KRS 175.410 to 175.690, inclusive.

Section 25. KRS 334A.120 is amended to read as follows:

All moneys received by the board under this chapter shall be paid to the secretary of the board. All money shall be deposited in the State Treasury into a separate trust fund for the board. The board shall be financed solely and individually from income accruing to it from fees, licenses, and other charges collected by the board and all such moneys are hereby appropriated to the board. All salaries and expenses shall be paid as budgeted after budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which may be included in the executive branch ***budget bill*** [~~joint budget resolution~~].

Section 26. KRS 335.140 is amended to read as follows:

All fees and other charges received by the board under this chapter shall be deposited in the State Treasury and credited to a separate trust and agency account for the board. The moneys so deposited shall be used to finance the board, and are hereby appropriated to the board. All salaries and expenses shall be paid as budgeted after budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which may be included in the executive branch ***budget bill*** [~~joint budget resolution~~].

**SB 331,** AN ACT relating to debt.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 56.870 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, prior to the issuance and sale of any definitive bonds or temporary bonds, or the securing of any interim financing through bond anticipation notes, loan agreements or by any other means, each agency, authority, board, corporation, cabinet, commission, or any other agency or instrumentality of the Commonwealth shall first obtain approval of any such financing from the general assembly, sitting in regular or special session. Such approval shall be evidenced by the adoption by the general assembly of a specific act or the adoption by the general assembly of the biennial ***branch budget bill*** [~~joint budget resolution~~] which shall specify the purposes for such financing.

(2) The biennial ***branch budget bill*** [~~joint budget resolution~~] shall also establish a ceiling for revenue bonds which require a general fund ***or road fund*** appropriation to retire.

(3) The provisions of subsection (1) of this section shall not be applicable to the financing of any project in any case where the project for which financing is proposed is certified by the governor, as hereinafter provided, to be of such type as to independently produce revenues sufficient to fully meet debt service, ***issuance costs, reserve fund requirements, insurance premiums and any other expenditures necessary for*** [~~on~~] such financing so that no appropriation of state [~~general~~] funds will be required. ***Repayments of revolving funds established with bond issues for which debt service, issuance costs, reserve fund requirements, insurance premiums or any other expenditures associated with the issuance of such bonds is appropriated by the General Assembly shall not be deemed independently produced revenue.*** Such certification shall be made in writing by the secretary of the finance and administration cabinet to the statutory head of the issuing agency or authority with a copy to the governor and the legislative research commission.

**HB 243,** AN ACT relating to housing the homeless and making an appropriation related thereto.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***For the purposes of this Act, unless the context otherwise requires:***

***(1) "Board of directors" means the board of directors of the Kentucky Housing Corporation as created and established pursuant to KRS 198A.030.***

***(2) "Corporation" means the Kentucky Housing Corporation.***

***(3) "Homeless individual" means any person who lacks a fixed, regular or adequate nighttime residence; or is at risk of becoming homeless in a rural or urban area because the residence is not safe, decent, sanitary and secure; or has as a primary nighttime residence a publicly or privately-operated shelter designed to provide temporary living accommodations; or has as a primary nighttime residence a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term shall include families and any person who does not have access to normal accommodations as a result of violence or the threat of violence from a cohabitant.***

***(4) "Nonprofit organization" and "community or neighborhood-based organization" shall mean any organization formed and approved pursuant to KRS 273.161 to 273.390 and Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended and whose purpose includes the development, construction, rehabilitation or acquisition of housing.***

***(5) "Social services" means those activities defined by the board of directors as set forth in regulations promulgated in accordance with the provisions of KRS Chapter 13A and which are directly related to providing housing for homeless persons who become tenants or homeowners in assisted projects under this Act. Social services may include but are not limited to assistance for persons with mental illness, persons who need training in house maintenance, credit counseling, or parenting skills, or for persons in need of counseling for substance abuse.***

***(6) "Trust fund" means the affordable housing for the homeless trust fund.***

***(7) "Very low income" means income of individuals or families which is below fifty percent (50%) of the median income for the reporting jurisdiction as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development (HUD) pursuant to the United States Housing and Community Development Act of 1974, as amended. If HUD ceases to promulgate such regulations, the Board of Directors shall, subject to the provisions of KRS Chapter 13A, adopt and periodically promulgate a comparable and substitute definition.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***(1) The General Assembly finds that:***

***(a) The state faces an immediate and unprecedented crisis due to the lack of shelter for a growing number of individuals and families;***

***(b) The problem of homelessness has become more severe and, in the absence of more effective efforts, is expected to become dramatically worse, endangering the lives and safety of homeless persons;***

***(c) Due to the record increase in homelessness, local governments and private voluntary organizations have been unable to meet the basic human needs of homeless persons.***

***(d) The state has a clear responsibility and an existing capacity to provide assistance to meet the immediate, basic human needs of the homeless;***

***(e) The state has a clear responsibility to prevent and provide long-term solutions to homelessness; and***

***(f) In a civilized society, adequate shelter should be a fundamental right for all persons.***

***(2) The General Assembly further finds and declares that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of very low income persons to obtain safe, decent and affordable housing; that an increasing number of individuals are homeless or live in overcrowded, inadequate, and unsafe housing units; that it is in the public interest to establish a continuously renewable resource known as a housing trust fund to assist very low income citizens in meeting their basic housing needs; and that the needs of homeless individuals should be given priority.***

***(3) It is the purpose of this Act to provide for and fund long-term solutions to homelessness; to provide safe, decent, sanitary, secure and affordable housing; and to provide for measures to prevent homelessness.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***(1) There shall be established in the State Treasury a separate, revolving, nonlapsing fund known as the Affordable Housing for the Homeless Trust Fund. The trust fund shall include revenue from sources provided under this section, gifts, appropriations and any other sources.***

***(2) All real estate escrow accounts shall be deposited in interest-bearing accounts and the interest shall be deposited in the trust fund.***

***(3) There shall be a surcharge of one dollar ($1) on all building licenses and building permits, as provided under KRS 67.410, 198B.060 or as otherwise provided under state law, which shall be deposited in the trust fund.***

***(4) All funds that escheat to the state pursuant to KRS Chapter 393 shall, upon final adjudication, be deposited in the trust fund.***

***(5) A real estate transfer tax of one dollar ($1) per five hundred dollars ($500) value or fraction thereof is added to KRS 142.050(2) on the sales price of all property transferred in the state which shall be deposited in the trust fund.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***(1) The state administering agency for the trust fund shall be the Kentucky Housing Corporation which shall use funds from the trust fund to finance in whole or in part any loans or grant projects that will provide housing for persons or families and with very low incomes, who are homeless or face a substantial probability of becoming homeless. The use of these funds for housing shall be used to create additional units and not to replace any present or future activities to create units for very low income persons, although these funds may be used in conjunction with other funds and projects to meet this intention.***

*(2) Activities eligible for funding shall include:*

*(a) Acquisition of housing units for the purpose of preservation or conversion as very low income housing;*

*(b) New construction, rehabilitation, or acquisition of very low income housing units;*

*(c) Matching funds for social services directly related to providing housing for homeless persons who become tenants in assisted projects or homeowners under this Act;*

*(d) Technical assistance, design, and finance services and consultation and administrative costs for eligible nonprofit community or neighborhood-based organizations; and*

*(e) Administrative costs for housing assistance purposes or organizations when the grants or loans will substantially increase the recipient's access to housing funds other than those available under this Act.*

*(3) Organizations eligible for funding under the trust fund include local governments, local housing authorities, nonprofit organizations based in a community or neighborhood, and regional or statewide nonprofit housing assistance organizations.*

*(4) Housing units provided to very low-income persons pursuant to this Act shall remain available and be deed-restricted to very low income persons for a minimum period of sixty (60) years.*

*(5) In the development of housing pursuant to this Act, no displacement of very low income persons shall be permitted except that the project shall pay all reasonable relocation costs as defined by the board of directors in any administrative regulation promulgated pursuant to this Act and subject to the provisions of KRS Chapter 13A.*

*(6) There shall be no discrimination in the sale or rental or otherwise making available or denying a dwelling funded under this Act to any buyer or renter because of race, religion, sex, familial status, handicap, or national origin.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*The corporation shall:*

*(1) Administer this Act and other housing assistance within the state;*

*(2) At least twice each calendar year, issue a public notice to eligible recipients of the availability of trust funds and provide for reasonable opportunity for the filing of applications;*

*(3) Act promptly on applications, and approve or deny properly submitted and completed applications within sixty (60) days of receipt;*

*(4) Grant as many applications as will effectively use available funds;*

*(5) Grant or deny applications by ranking applications competitively using criteria established by administrative regulations subject to the provisions of KRS Chapter 13A, with applications for projects to receive first priority for funding being those submitted by nonprofit groups or local government for new construction for homeless families; with those to receive second priority being applicants with projects using existing privately owned housing stock, including stock purchased by nonprofit public development authorities; with those to receive third priority being applicants with projects using existing publicly owned stock; and fourth priority to local government projects which demonstrate effective zoning, conversion or demolition controls for single room occupancy units;*

*(6) Not use in excess of five percent (5%) of the available funds for administrative costs, nor approve any project in which funds in excess of five percent (5%) will be used for administrative costs except as permitted in subsection (2) of Section 4 of this Act;*

*(7) Use not less than forty percent (40%) of all funds received for rural areas of the state with the following communities not being eligible for rural targeting: Ashland, Bowling Green, Covington, Henderson, Hopkinsville, Jefferson County, Lexington, Louisville, Owensboro and Paducah;*

*(8) Use not less than twenty percent (20%) of all funds received for homeless persons whose income is below thirty percent (30%) of the reporting jurisdiction's median income. Any funds targeted under this section which are not expended or obligated within twenty-four (24) months may be reprogrammed in non-targeted communities and for very low income persons, unless the corporation extends the period for good cause not to exceed an additional twelve (12) months.*

*(9) Provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing*

***related services for very low income persons and may contract with community or neighborhood based nonprofit organizations to provide the technical assistance;***

***(10) Provide or contract for:***

***(a) Financial planning and packaging for housing projects including alternative ownership programs and bridge financing;***

***(b) Project design, architectural planning and siting, and compliance with planning requirements;***

***(c) Securing matching resources for project development;***

***(d) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low rise multifamily projects, or creative local planning;***

***(e) Coordination with local planning, economic development, environmental, social services, and recreational activities;***

***(f) Construction and material management; and***

***(g) Project maintenance and management;***

***(11) Have the authority to disburse funds and to promulgate rules, subject to KRS Chapter 13A, regarding the grant and loan process, the substance of eligible projects, the preferences to be given and evaluation criteria to be used to approve projects, and as otherwise necessary to carry out the purposes of this Act.***

SECTION 6. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***(1) The corporation shall create an advisory committee consisting of eleven (11) members, who shall be appointed by the chairman of the board of directors, with at least six (6) members being from rural communities as provided under subsection (7) of Section 5 of this Act. Appointed members shall include persons who represent each one (1) of the following areas of expertise or experience: real estate, banking or savings and loan industry, housing, law, the provision of direct services to the homeless, neighborhood development, being a homeless person or having been a homeless person within two (2) years of the appointment, or being a very low income tenant.***

***(2) The terms of the members first appointed shall be staggered so that a proportionate number serve one (1), two (2), or three (3) years with all subsequent appointments to be for three (3) years. The term of office of each appointed member shall expire on the second Friday in January of the appropriate year. Members may be reappointed once.***

***(3) The advisory committee shall set program and policy guidelines, provide periodic evaluation of the program and report to the board of directors.***

***(4) The advisory committee shall establish its own guidelines as to officers and meetings.***

Section 7. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing (other than a will and other than a lease or easement), regardless of where made, executed or delivered whereby any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed ***shall be*** [~~is~~] imposed at the rate of ***one dollar and fifty cents ($1.50)*** [~~fifty cents (50)~~] for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property ***of which one dollar ($1) for each five hundred dollars ($500), minus the five percent (5%) county clerk collection fee provided under***

***subsection (4) of this section, shall be used by the affordable housing for the homeless trust fund as provided under Sections 1 through 6 of this Act.***

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect such amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund. ***The funds collected to house the homeless under the provisions of subsection (2) of this section shall be deposited in the trust fund established in Section 3 of this Act.***

(5) The Revenue Cabinet may prescribe [~~such rules and~~] regulations [~~as it may deem~~] necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to such deed shall, upon conviction, be fined $50 for each offense.

(7) Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than one hundred dollars ($100) or to imprisonment for not more than thirty (30) days or to both [~~such~~] fine and imprisonment for each offense.

(8) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To (in the event of a deed of gift or deed with nominal consideration) or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or parent and child, with only nominal consideration therefor;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***Any person who fails, neglects or refuses to comply with subsections (3) through (5) of Section 3 or subsection (2) of Section 4 of this Act or who makes a false statement as to value of consideration or fraudulently affixes or attempts to affix to any document a forged or counterfeit impression of any receipt or stamp of any county clerk or of the State Treasurer shall be, in addition to any other penalties, subject to a civil fine not to exceed five hundred dollars ($500) for each day in which a violation occurs. The fine shall be deposited in the trust fund.***

SECTION 9. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***This Act may be cited as the "Kentucky Homeless Persons Assistance Act of 1990."***

Section 10. To carry out the purposes of this Act, there is appropriated to the affordable housing for the homeless trust fund out of the general fund in the State Treasury the sum of $250,000 for the fiscal year ending June 30, 1991.

The Committee Substitute to **HB 243** is as follows:

**HB 243**, AN ACT relating to housing the homeless and making an appropriation related thereto.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***For the purposes of this Act, unless the context otherwise requires:***

***(1) "Board of directors" means the board of directors of the Kentucky Housing Corporation as created and established pursuant to KRS 198A.030.***

***(2) "Corporation" means the Kentucky Housing Corporation.***

***(3) "Homeless individual" means any person who lacks a fixed, regular or adequate nighttime residence; or is at risk of becoming homeless in a rural or urban area because the residence is not safe, decent, sanitary and secure; or has as a primary nighttime residence a publicly or privately-operated shelter designed to provide temporary living accommodations; or has as a primary nighttime residence a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term shall include families and any person who does not have access to normal accommodations as a result of violence or the threat of violence from a cohabitant.***

***(4) "Nonprofit organization" and "community or neighborhood-based organization" shall mean any organization formed and approved pursuant to KRS 273.161 to 273.390 and Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended, and whose purpose includes the development, construction, rehabilitation or acquisition of housing.***

***(5) "Social services" means those activities defined by the board of directors as set forth in regulations promulgated in accordance with the provisions of KRS Chapter 13A and which are directly related to providing housing for homeless persons who become tenants or homeowners in assisted projects under this Act. Social services may include but are not limited to assistance for persons with mental illness, persons who need training in house maintenance, credit counseling, or parenting skills, or for persons in need of counseling for substance abuse.***

***(6) "Trust fund" means the affordable housing for the homeless trust fund.***

***(7) "Very low income" means income of individuals or families which is below fifty percent (50%) of the median income for the state.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***(1) The General Assembly finds that:***

***(a) The state faces an immediate and unprecedented crisis due to the lack of shelter for a growing number of individuals and families;***

***(b) The problem of homelessness has become more severe and, in the absence of more effective efforts, is expected to become dramatically worse, endangering the lives and safety of homeless persons;***

***(c) Due to the record increase in homelessness, local governments and private voluntary organizations have been unable to meet the basic human needs of homeless persons.***

***(2) The General Assembly further finds and declares that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of very low income persons to obtain safe, decent and affordable housing; that an increasing number of individuals are homeless or live in overcrowded, inadequate, and unsafe housing units; that it is in the public interest to establish a continuously renewable resource known as a housing trust fund to assist very low income citizens in meeting their basic housing needs; and that the needs of homeless individuals should be given priority.***

*(3) It is the purpose of this Act to provide for long-term solutions to homelessness; to provide safe, decent, sanitary, secure and affordable housing; and to provide for measures to prevent homelessness.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*There shall be established in the State Treasury a separate, revolving, nonlapsing fund known as the Affordable Housing for the Homeless Trust Fund. The trust fund shall include revenue from any gifts, appropriations and any other sources.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*(1) The state administering agency for the trust fund shall be the Kentucky Housing Corporation which shall use funds from the trust fund to finance in whole or in part any loans or grant projects that will provide housing for persons or families and with very low incomes, who are homeless or face a substantial probability of becoming homeless. The use of these funds for housing shall be used to create additional units and not to replace any present or future activities to create units for very low income persons, although these funds may be used in conjunction with other funds and projects to meet this intention.*

*(2) Activities eligible for funding shall include:*

*(a) Acquisition of housing units for the purpose of preservation or conversion as very low income housing;*

*(b) New construction, rehabilitation, or acquisition of very low income housing units;*

*(c) Matching funds for social services directly related to providing housing for homeless persons who become tenants in assisted projects or homeowners under this Act;*

*(d) Technical assistance, design, and finance services and consultation and administrative costs for eligible nonprofit community or neighborhood-based organizations; and*

*(e) Administrative costs for housing assistance purposes or organizations when the grants or loans will substantially increase the recipient's access to housing funds other than those available under this Act.*

*(3) Organizations eligible for funding under the trust fund include local governments, local housing authorities, nonprofit organizations based in a community or neighborhood, and regional or statewide nonprofit housing assistance organizations.*

*(4) Housing units provided to very low-income persons pursuant to this Act shall be deed-restricted under the following conditions:*

*(a) All rental housing shall be deed restricted for a minimum of sixty (60) years. Exceptions may be granted by appeal to the board of directors which may grant a waiver based on a case-by-case review of the situation and providing that the investment from this fund into the specific housing revert to like housing for very low income persons.*

*(b) All single family units or units for sale shall be deed restricted for a minimum of five (5) years.*

*(5) In the development of housing pursuant to this Act, no displacement of very low income persons shall be permitted except that the project shall pay all reasonable relocation costs as defined by the board of directors in any administrative regulation promulgated pursuant to this Act and subject to the provisions of KRS Chapter 13A.*

*(6) There shall be no discrimination in the sale or rental or otherwise making available or denying a dwelling funded under this Act to any buyer or renter because of race, religion, sex, familial status, handicap, or national origin.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*The corporation shall:*

*(1) Administer this Act and other housing assistance within the state;*

*(2) At least twice each calendar year, issue a public notice to eligible recipients of the availability of any trust funds and provide for reasonable opportunity for the filing of applications;*

*(3) Act promptly on applications, and approve or deny properly submitted and completed applications within sixty (60) days of receipt;*

*(4) Grant as many applications as will effectively use available funds;*

*(5) Grant or deny applications by ranking applications competitively using criteria established by administrative regulations subject to the provisions of KRS Chapter 13A, with applications for projects to receive first priority for any funding being those submitted by nonprofit groups or local government for new construction for homeless families; with those to receive second priority being applicants with projects using existing privately owned housing stock, including stock purchased by nonprofit public development authorities; with those to receive third priority being applicants with projects using existing publicly owned stock; and fourth priority to local government projects which demonstrate effective zoning, conversion or demolition controls for single room occupancy units;*

*(6) Not use in excess of five percent (5%) of the available funds for administrative costs, nor approve any project in which funds in excess of five percent (5%) will be used for administrative costs except as permitted in subsection (2) of Section 4 of this Act;*

*(7) Use not less than forty percent (40%) of all funds received for rural areas of the state with the following communities not being eligible for rural targeting: Ashland, Bowling Green, Covington, Henderson, Hopkinsville, Jefferson County, Lexington, Louisville, Owensboro and Paducah;*

*(8) Use not less than twenty percent (20%) of all funds received for homeless persons whose income is below thirty percent (30%) of the reporting jurisdiction's median income. Any funds targeted under this section which are not expended or obligated within twenty-four (24) months may be reprogrammed in non-targeted communities and for very low income persons, unless the corporation extends the period for good cause not to exceed an additional twelve (12) months.*

*(9) Provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing related services for very low income persons and may contract with community or neighborhood based nonprofit organizations to provide the technical assistance;*

*(10) Provide or contract for:*

*(a) Financial planning and packaging for housing projects including alternative ownership programs and bridge financing;*

*(b) Project design, architectural planning and siting, and compliance with planning requirements;*

*(c) Securing matching resources for project development;*

*(d) Maximizing any local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low rise multifamily projects, or creative local planning;*

*(e) Coordination with local planning, economic development, environmental, social services, and recreational activities;*

*(f) Construction and material management; and*

*(g) Project maintenance and management;*

*(11) Have the authority to disburse funds and to promulgate rules, subject to KRS Chapter 13A, regarding the grant and loan process, the substance of eligible projects, the preferences to be given and evaluation criteria to be used to approve projects, and as otherwise necessary to carry out the purposes of this Act.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*(1) The corporation shall create an advisory committee consisting of eleven (11) members, who shall be appointed by the chairman of the board of directors, with three (3) members each being appointed to represent each of the following organizations or areas of expertise or experience:*

*(a) The Kentucky Home Builders Association, the Manufactured Housing Association, the Apartment Association, the Association of Building Contractors, the Kentucky Board of Realtors, and the Kentucky State Building Trades Council;*

*(b) The Kentucky Coalition for the Homeless, builders of nonprofit housing, social service providers, homeless persons, and very-low income tenants; and*

*(c) The Kentucky Association of Counties, the Kentucky Municipal League, and agencies of state government.*

*The remaining two (2) members appointed shall include one (1) member of the Senate and one (1) member of the House of Representatives.*

***(2) The terms of the members first appointed shall be staggered so that a proportionate number serve one (1), two (2), or three (3) years with all subsequent appointments to be for three (3) years. The term of office of each appointed member shall expire on the second Friday in January of the appropriate year. Members may be reappointed once.***

***(3) The advisory committee shall set program and policy guidelines, provide periodic evaluation of the program and report to the board of directors.***

***(4) The advisory committee shall establish its own guidelines as to officers and meetings.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***Any person who fails, neglects or refuses to comply with subsection (2) of Section 4 of this Act shall be, in addition to any other penalties, subject to a civil fine not to exceed five hundred dollars ($500) for each day in which a violation occurs. The fine shall be deposited in the trust fund.***

SECTION 8. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

***This Act may be cited as the "Kentucky Homeless Persons Assistance Act of 1990."***

The Committee Title Amendment to **HB 243** is as follows:

Amend printed copy of **HB 243/TITLE** by amending the title to read as follows:

"AN ACT relating to housing the homeless."

The Committee on Appropriations and Revenue reported **HB 812** and **SB 132** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

**HB 812**, AN ACT relating to retirement, making an appropriation therefor, and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective ***July 1, 1990*** [~~August 1, 1988~~], upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) for the County Employees Retirement System and one and ***ninety-seven*** [~~ninety-one~~] hundredths percent ***(1.97%)*** [~~(1.91%)~~] for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit. ***It is the intent of the General Assembly that when it would be prudent to do so given the funding status of the Kentucky Employees' Retirement System, it shall amend this subsection to increase the annual accrual rate of the Kentucky Employees' Retirement System to two percent (2%). This rate, when coupled with Social Security benefits which the state also funds, will provide career employees of the state and its political subdivisions with retirement benefits sufficient to insure their financial security throughout their retirement. It is recognized that an initially adequate retirement benefit can be diminished severely by price inflation. Therefore, it is the intention of the General Assembly, after attaining a two percent (2%) accrual rate for state and local government employees, to direct financial resources to funding retiree cost-of-living adjustments pursuant to KRS 61.691, so that the retirement security provided to state and local government employees through the Kentucky Employees Retirement System and the County Employees Retirement System can be maintained. Exceptions to the retirement allowances found in this paragraph include***[~~; except that~~]:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, ***if the*** [~~provided such~~] member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of ***the*** [~~such~~] computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any [~~such~~] member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky Employees Retirement System or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service. A member who has earned vested service credit in a retirement system, other than the teachers' retirement system, sponsored by a Kentucky institution of higher education may count ***the*** [~~such~~] vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. ***The*** [~~Such~~] credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of teachers' retirement system credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 61.691 is amended to read as follows:

(1) Effective August 1, 1988 and July 1, 1989, a recipient of a retirement allowance under KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by four and one-half percent (4 1/2%). ***Beginning August 1, 1990 and continuing each July 1 thereafter, the board shall increase retirement allowances for each recipient of a retirement allowance under KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852 out of the rate margin for each respective system. For this purpose, the rate margins for hazardous and nonhazardous categories of the Kentucky Employees Retirement System and the County Employees Retirement System shall be calculated separately. Each recipient shall receive an increase equal to the increase in the consumer price index for all urban consumers for the preceding calendar year, but no more than five percent (5%) and no more than can be supported by the rate margin for the system from which the recipient has retired. If the rate margin is not sufficient to fund the allowable increase, the board shall fund in that year so much of the increase as can be paid out of the margin. The board shall fund the deficiency on a deferred basis out of the rate margins of any of the four (4) subsequent years, if funds are sufficient after payment of the allowable increase for the year in question*** [~~Thereafter, the board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky employes retirement system as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period~~].

(2) A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving ***the*** [~~said~~] retirement allowance at the time ***the*** [~~such~~] increase under this section is effective.

Section 3. In recognition that the Attorney General has advised in OAG 90-6 that the transfer in 1988 Acts Chapter 437, Part VIII of three million, three hundred thousand dollars ($3,300,000) from the Kentucky Retirement Systems to the General Fund was an unlawful impairment of the state's obligation to its employees, there is appropriated to the Kentucky Employees' Retirement System out of the General Fund for the fiscal year 1990-91 the sum of three million, six hundred and fifty-six thousand, six hundred and sixty-four dollars ($3,656,664). This sum represents ninety-five percent (95%) of the three million, three hundred thousand dollars ($3,300,000) transfer from the Kentucky Retirement Systems to the General Fund, compounded for two (2) years at the actuarially assumed interest rate adopted by the Kentucky Retirement Systems Board of Trustees.

Section 4. Whereas, retirement checks are processed on a monthly basis and administrative difficulties would result if retirement factors were to change in the middle of a month, an emergency is declared to exist, and this Act shall take effect on July 1, 1990.

**SB 132,** AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective August 1, 1988, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) for the County Employees Retirement System and one and ninety-one hundredths percent (1.91%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, provided such member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of such computed actuarial cost shall be paid from the state treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky Employees Retirement System or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service, ***but a member of the Kentucky Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance.*** A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education may count such vested service toward attaining thirty

(30) years of service credit to qualify for an unreduced retirement allowance. Such credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852 a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service, may elect to receive an annual retirement allowance payable monthly or less frequently as determined by the board which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or

(d) The member has thirty (30) or more years of service, at least fifteen (15) of which are current service, ***or the member of the Kentucky Employees Retirement System has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service***; or

(e) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

The Committee on Appropriations and Revenue reported **HB 489, HB 557, HB 259** with Committee Amendments attached thereto, **HB 75** with Committee Substitute attached thereto, **HB 132** with Committee Substitute and Committee Amendment attached thereto, and **HB 478** with Committee Substitute and Committee Amendment attached thereto, and **HB 276** with the expression of opinion that the same should pass. Ordered to the Committee on Rules.

The Committee Amendment No. 1 to **HB 132** is as follows:

Amend printed copy of HCS **HB 132** on page 12, after line 2, by inserting:

"SECTION 14. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created the Motor Fuel Compliance Fund. The fund shall be maintained as a separate and distinct account. All fees collected pursuant to Section 15 of this Act shall be deposited in the fund.***

***(2) The fund shall be administered by the department and shall be used only for the purpose of implementing an inspection and testing program to assure compliance with this Act.***

SECTION 15. A NEW SECTION OF KRS 363.850 TO 363.991 IS CREATED TO READ AS FOLLOWS:

***(1) There is established a motor fuel compliance fee to be paid by dealers, as defined in KRS 138.210(2),***

***on each gallon of gasoline and special fuels received in the state. The fee shall be assessed at a rate of two and one half cents (2 1/2) for each one hundred (100) gallons received. All money collected from the assessment of this fee shall be deposited to the Motor Fuel Compliance Fund.***

***(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.***

***(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.***

***(4) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by this Act.***"; and

On lines 3 through 6, by deleting all the text thereon.

The Committee Amendment No. 1 to the Committee Substitute to **HB 478** is as follows:

Amend printed copy of **HB 478/HCS** on page 8, delete lines 22 through 26 in their entirety;

On pages 9, 10, 11 and 12 delete lines 1 through 26 in their entirety;

On page 13, delete lines 1 through 20 in their entirety;

On page 15, delete lines 8 and 9 in their entirety;

And renumber sections to conform.

The Committee on Appropriations and Revenue reported **HB 938** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules as a Consent Bill.

The Committee on Education reported **HB 940** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

**HB 940**, AN ACT relating to the reform of the Commonwealth's system of common schools, raising revenues incidental thereto, and responding to the Supreme Court's mandate in ***Rose v. Council for Better Education, Inc.*** and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. This Act may be cited as the "Kentucky Education Reform Act of 1990."

## PART I - CURRICULUM

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

***It is the intent of the General Assembly to create a system of public education which shall allow and assist all students to acquire the following capacities:***

***(1) Communication skills necessary to function in a complex and changing civilization;***

***(2) Knowledge to make economic, social, and political choices;***

***(3) Understanding of governmental processes as they affect the community, the state, and the nation;***

***(4) Sufficient self-knowledge and knowledge of his mental and physical wellness;***

***(5) An appreciation of his cultural and historical heritage;***

***(6) Sufficient preparation to choose and pursue his life's work intelligently; and***

***(7) Skills to enable him to compete favorably with students in other states.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

***(I) Upon the effective date of this Act, the Council on School Performance Standards established by***

*Executive Order 89-151 shall reconvene to frame the following six (6) goals for the schools of the Commonwealth in measurable terms which define the outcomes expected of students:*

*(a) Schools shall expect a high level of achievement of all students.*

*(b) Schools shall develop their students' ability to:*

*1. Use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives;*

*2. Apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives;*

*3. Become a self sufficient individual;*

*4. Become responsible members of a family, work group, or community including demonstrating effectiveness in community service;*

*5. Think and solve problems in school situations and in a variety of situations they will encounter in life; and*

*6. Connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various media sources.*

*(c) Schools shall increase their students' rate of school attendance.*

*(d) Schools shall reduce their students' dropout and retention rates.*

*(e) Schools shall reduce physical and mental health barriers to learning.*

*(f) Schools shall be measured on the proportion of students who make a successful transition to work, post-secondary education and the military.*

*(2) The Council on School Performance Standards shall employ necessary staff and shall be attached to the Department of Education for Administrative purposes.*

*(3) The Council on School Performance Standards shall establish a number of committees with statewide representation of certified personnel to frame the goals in measurable terms which specify the expected outcomes. The council shall make periodic progress reports and a final report by December 1, 1991, to the Governor, the State Board for Elementary and Secondary Education, and the Legislative Research Commission. The State Board for Elementary and Secondary Education shall adopt the goals of the council.*

*(4) By July 1, 1993, the State Board for Elementary and Secondary Education shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes and assessment strategies developed pursuant to this section and Sections 2 and 4 of this Act. The framework shall provide direction to local districts and schools as they develop their curriculum. The framework shall identify teaching and assessment strategies, instructional material resources, ideas on how to incorporate the resources of the community, a directory of model teaching sites, and alternative ways of using school time.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

*(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in Section 2 of this Act. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8) and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in Section 3 of this Act, to establish a baseline for determining school success during the 1993-94 school year.*

*(2) Upon the effective date of this Act, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:*

***(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;***

***(b) Direct the development of the interim and full-scale assessment program; and***

***(c) Direct the development of the formula to be used to determine successful schools pursuant to Section 5 of this Act.***

***The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.***

***(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress.***

***(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations.***

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

***It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.***

***(1) The State Board for Elementary and Secondary Education shall promulgate administrative regulations to establish a system of determining successful schools and dispensing appropriate rewards. The system shall be based on the following:***

***(a) A school shall be the unit of measure to determine success;***

***(b) School success shall be determined by measuring a school's improvement over a two (2) year period;***

***(c) A school shall be rewarded for an increased proportion of successful students including those students who are at risk of school failure;***

***(d) A threshold level for school improvement shall be established by the board to determine the amount of success needed for a school to receive a reward. The threshold definition shall establish the percentage of increase required in a school's percentage of successful students as compared to a school's present proportion of successful students with consideration given to the fact that a school closest to having one hundred percent (100%) successful students will have a lower percentage increase required;***

***(e) Rewards shall be given to the school on behalf of the full-time, part-time, and itinerant instructional staff of a school who generate the reward when the school achieves at least one percent (1%) gain over its threshold as defined in paragraph (d) of this subsection. Substitute teachers shall not be used in calculating the reward;***

***(f) Rewards shall be calculated by applying the percentage set by the General Assembly in the biennial budget to the current annual salary of each certified staff person employed in the school on the last working day of the year of the reward. The reward for part-time and itinerant staff shall be calculated for the proportion of time spent in the school. The staff person's identity shall be maintained when his share of the reward is deposited to the school's account;***

***(g) The certified staff members shall by majority rule collectively decide on the ways the reward funds shall be spent. Each individual staff person shall use the amount he earned in accordance with the decisions made by the total staff. Rewards shall not be added to a staff person's base salary and shall not be defined as compensation for retirement purposes under KRS 161.220(10); and***

***(h) The Department of Education shall send the school's reward to the local district office for transmittal to the school.***

***(2) The State Board for Elementary and Secondary Education, after adopting the goals of the Council on School Performance Standards and determing the definition of a successful student, shall adopt by administrative regulation the formula to be used to determine successful schools. The formula shall be a calculus of factors which reflect the school outcomes described in Section 3 of this Act.***

***(3) A school that does not reach its threshold level as defined in paragraph (d) of subsection (1) of this section but maintains the previous proportion of successful students shall be required to develop a***

***school improvement plan and shall be eligible to receive funds from the school improvement fund pursuant to KRS 158.805. A school that does not reach its threshold level but maintains the previous proportion of successful students after the second biennial review shall be required to meet the provisions of subsection (4) of this section.***

***(4) A school in which the proportion of successful students declines by less than five percent (5%) shall be required to develop a school improvement plan, shall be eligible to receive funds from the school improvement fund, and shall have one (1) or more Kentucky distinquished educators assigned to the school to carry out the duties as described in Section 6 of this Act. If the school does not meet its threshold after the next biennial review the school shall be subject to the requirements of subsection (5) of this section.***

***(5) A school in which the proportion of successful students declines by five percent (5%) or more shall be declared by the State Board for Elementary and Secondary Education to be a "school in crisis." When a school is declared to be a "school in crisis," the following actions shall be required:***

***(a) The full-time and part-time certified staff of that school shall be placed on probation;***

***(b) The principal shall immediately notify the students' parents of the students' right to transfer to a successful school with procedures for initiating the request;***

***(c) Within thirty (30) days after the declaration by the state board under this subsection, any student in that school may request and shall be allowed to transfer to a successful school as determined under the provisions of subsection (2) of this section. The superintendent shall select the receiving successful school in the home district or make arrangements with a neighboring district. If two (2) districts cannot agree, the superintendent of the student's resident district shall request the State Board for Elementary and Secondary Education to resolve the issue and make a decision on the placement of the student within thirty (30) days of the request. The board of the district in which the student resides shall be responsible for all tuition and transportation costs incurred as a result of a student transferring from a "school in crisis" to a successful school. If a decline in student enrollment causes overstaffing at the "school in crisis," personnel shall be reduced or transferred pursuant to KRS 161.760 and 161.800.***

***(d) One (1) or more Kentucky distinquished educators shall be assigned to the school by the commissioner of education to carry out the duties as described in Section 6 of this Act. Notwithstanding any other statute to the contrary, at the end of six (6) months, the Kentucky distinquished educator shall evaluate and make a recommendation to the superintendent regarding the retention, dismissal, or transfer of each full-time and part-time certified staff member. Recommendations for transfer shall conform to any employer-employee bargained contract which is in effect. Recommendations for dismissal shall be binding on the superintendent who shall notify the staff member pursuant to KRS 161.790. This evaluation process shall continue every six (6) months until the school is no longer a "school in crisis" as determined by the State Board for Elementary and Secondary Education; and***

***(e) The school shall be required to develop a school improvement plan and shall be eligible to receive funds from the school improvement fund.***

***(6) The State Board for Elementary and Secondary Education shall develop a system of rewards and sanctions for certified staff who are not assigned to a school in a local school district. The system shall be analogous to the system described in subsections (1) through (5) of this section. Rewards shall be given to non-school based staff when the district's proportion of successful students increases above a threshold adopted by the state board and comparable to the threshold adopted for schools. Sanctions shall be imposed when the proportion of successful students in the district declines in the same proportion used to determine school sanctions under subsections (3), (4), and (5) of this section. A school district that does not meet its threshold shall be required to develop a district improvement plan defined in KRS 158.650.***

***(7) A school district in which the proportion of successful students declines by five percent (5%) or more shall be assigned one (1) or more Kentucky distinquished educators to assist the system, evaluate personnel, and notwithstanding any other statute to the contrary, make personnel recommendations every six (6) months on retention, dismissal, or transfer. Personnel recommendations shall be made to the superintendent. Recommendations on the superintendent's status shall be made to the local board of education. If the recommendation is to terminate the superintendent, the board shall terminate the contract pursuant to KRS 160.350. If a district has a declining proportion of successful students for two (2) consecutive biennial assessment periods, the district shall be declared an education development district pursuant to KRS 158.685 and the board members and the superintendent shall be removed under the provisions of KRS 156.132 and 156.136.***

***(8) The State Board for Elementary and Secondary Education shall adopt administrative regulations to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. The state board may adjust a performance judgment on appeal when evidence of highly unusual***

*circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations; is arbitrary, is lacking any reasonable basis, or when there are significant circumstances occurring during the biennial assessment period which are beyond the control of the school.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

*(1) The State Board for Elementary and Secondary Education shall promulgate administrative regulations to set forth the criteria for the Kentucky distinquished educators program which shall be implemented by July 1, 1991. The designation of "Kentucky Distinquished Educator" shall be given to the state's most outstanding and highly skilled certified educators who deserve recognition and are willing to fulfill the following purposes of the program:*

*(a) Serving as teaching ambassadors to spread the message that teaching is an important and fulfilling profession;*

*(b) Assisting the Department of Education with research projects and staff development efforts;*

*(c) Accepting assignments in schools whose percentage of successful students declined as described in Section 5 of this Act. The assignments shall require the educator to:*

*1. Work in a school full-time for a designated period of time to assist the school staff with implementing its school improvement plan. The educator shall have the authority to make decisions previously made by the school staff;*

*2. Help to increase the effectiveness of the staff, parents, the civic and business community, and government and private agencies in improving the school's performance; and*

*3. Evaluate and make recommendations on the retention, dismissal, or transfer of certified staff in a "school in crisis."*

*(2) The Kentucky distinquished educators program criteria shall include:*

*(a) A selection process which shall allow for self nomination, provide a broad spectrum of instructional positions, and generate statewide representation.*

*(b) Beginning with the 1992-93 school year, special recognition shall be given to five (5) Kentucky distinquished educators each year in the form of a one (1) year sabbatical leave to work with instructional personnel across the state and to serve as teaching ambassadors to the state at large.*

*(c) Each recipient shall receive a monetary award of two hundred fifty dollars ($250) when selected and shall also be paid in accordance with his current salary for other program requirements which arise pursuant to subsection (1) of this section. The Department of Education shall be responsible for all expenses incurred as a result of the Kentucky distinquished educators program except those expenses associated with the funding of the position of the person who replaces the Kentucky distinguished educator when he is assigned to an unsuccessful school or district.*

*(d) Kentucky distinquished educators assigned to an unsuccessful school shall receive a salary supplement of fifty percent (50%) of his annual salary for each year of service in that capacity. The state board shall determine if reimbursement for vehicle mileage shall be allowed. If his assigned school achieves the threshold level in the next biennial review, he shall receive his portion of the reward due to the entire staff calculated on his base salary regardless of decisions made by the school staff.*

*(e) The Kentucky distinguished educator shall be granted professional leave pursuant to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. The Kentucky distinguished educator shall not lose any employee benefits as a result of his special assignment.*

*(f) A Kentucky distinguished educator shall not be assigned to a school or to a district assignment in the district in which he is employed.*

Section 7. KRS 158.805 is amended to read as follows:

(1) There is hereby created the *Commonwealth school improvement* [~~educational innovation incentive~~] fund to *assist local schools in pursuing new and innovative strategies* [~~encourage the development of innovative programs~~] to meet the educational needs of the *school's students and raise the school's performance level* [~~citizens of the Commonwealth of Kentucky~~]. The State Board for Elementary and Secondary Education shall utilize the *Commonwealth school improvement* [~~educational innovation incentive~~] fund to provide grants to *schools* [~~teachers and local school districts~~] for the following purposes:

(a) To support teachers and administrators in the development of sound and innovative approaches to improve instruction or management;

(b) To assist in replicating successful programs ***developed*** in ***other*** districts [~~where special needs or opportunities exist~~];

(c) To encourage cooperative instructional or management approaches to specific ***school*** [~~local or regional~~] educational problems; and

(d) To ***encourage*** [~~provide challenge grants to~~] teachers and administrators to conduct experimental [~~or model~~] programs to test concepts and applications being advanced as solutions to specific educational problems.

(2) The State Board for Elementary and Secondary Education shall develop criteria for awards of grants from the ***Commonwealth school improvement*** [~~educational innovation incentive~~] fund ***to schools in educationally deficient districts pursuant to KRS 158.685 through the 1993-94 school year. Beginning with the 1994-95 school year, grants shall go to schools which do not meet their threshold as defined in Section 5 of this Act.*** The Governor shall appoint an advisory committee which shall include teachers, administrators, teacher educators, and representatives of the general public to assist in the planning and implementation of the ***Commonwealth school improvement*** [~~educational innovation incentive~~] fund. The members of the advisory committee shall serve without compensation, but shall be reimbursed for all reasonable expenses incurred in the discharge of official duties. The committee shall advise the board on application procedures, review of proposals, evaluation criteria, reporting requirements and other matters relating to the fund as requested by the board.

(3) The State Board for Elementary and Secondary Education shall have the sole authority to approve grants from the fund. The advisory committee shall review proposals for grants and make recommendations to the board relating to the merits of each proposal.

(4) The State Board for Elementary and Secondary Education may establish priorities for ***the use of the funds and, through the Department of Education, shall provide assistance to schools in preparing their grant proposals*** [~~experimental or model programs which shall be eligible for funding from the fund for a period not to exceed two (2) years. Two (2) or more school districts undertaking cooperative instructional or management projects shall be eligible for funding on an annual basis for a period not to exceed five (5) years. All other projects shall be eligible for funding for a period not to exceed one (1) year~~]. The board shall require that no funds awarded under the ***Commonwealth school improvement*** [~~educational innovation incentive~~] fund are used to supplant funds from any other source. Requests for necessary equipment may be approved at the discretion of the ***state*** board, however the cost of equipment purchased by any grantee shall not exceed twenty percent (20%) of the total amount of money awarded for each proposal and shall be matched by local funds on a dollar for dollar basis.

(5) The State Board for Elementary and Secondary Education [~~is authorized to award grants from the fund to teachers, schools, local school districts or groups of school districts on the basis of qualified proposals. A minimum of twenty percent (20%) of available funds shall be designated for grants to teachers. A minimum of thirty percent (30%) of available funds shall be designated for grants to individual schools. The state board for elementary and secondary education~~] shall establish maximums for specific grant awards. All fund recipients shall provide the board with an accounting of all money received from the fund and shall report the results and conclusions of any funded projects to the State Board for Elementary and Secondary Education. All fund recipients shall provide the board with adequate documentation of all projects to enable replication of successful projects in other areas of the state.

Section 8. KRS 158.650 is amended to read as follows:

As used in KRS ***158.680 to 158.710*** [~~158.660 to 158.750~~], unless the context otherwise requires:

(1) "Department" means the [~~state~~] Department of Education;

(2) "Competencies" means the possession of skills, knowledge and understandings to the degree they can be demonstrated or measured;

(3) [~~"Basic skills" means reading, writing, spelling, mathematics, and library research reference skills;~~

~~(4)~~] "***Performance*** [~~Product~~] goals" means expected student and school district outcomes as approved by the State Board for Elementary and Secondary Education;

***(4) "Interim performance goal" means the specified amount of improvement the district shall achieve toward meeting the performance goal agreed upon in the district improvement plan;***

(5) "Process goals" means systematic and orderly procedures including specific actions and time frames to be followed in achieving ***performance*** [~~product~~] goals;

(6) [~~"Library research reference skills" means the ability to locate and utilize various sources of information;~~

~~(7)~~] "Standards" means acceptable levels of attainment school districts shall meet in ***student,*** program, [~~and~~] service [~~offerings~~] and ***operational performance*** [~~students shall meet in attaining the basic skills~~] as established ***in administrative regulations adopted*** by the State Board for Elementary and Secondary Education;

***(7)***[~~(8)~~] "Educationally deficient school ***district*** [~~districts~~]" means ***a*** school ***district*** [~~districts~~] which ***does*** [~~do~~] not meet minimum standards in ***student,*** program, [~~and~~] service [~~offerings~~] or ***operational performance*** [~~in which insufficient numbers of students meet minimum standards of attainment of basic skills~~];

***(8) "Education development district" means an educationally deficient district which fails to meet all process goals or to achieve all interim performance goals according to the timelines established in the district improvement plan;***

(9) "Annual performance report" means the report published annually by each local board of education that presents the district's performance with regard to ***performance*** [~~product~~] goals as established by State Board for Elementary and Secondary Education administrative regulations; ***and***

(10) [~~"Accreditation report" means the report prepared by a department evaluation team and approved by the State Board for Elementary and Secondary Education that assesses the availability and adequacy of the resources that are needed in a local school district to provide an adequate education program as defined by State Board for Elementary and Secondary Education administrative regulation; and~~

~~(11)~~] "***District*** [~~Educational~~] improvement plan" means the plan developed by a local school district in consultation with ***the Department of Education***, [~~and approved by, the State Board for Elementary and Secondary Education~~] that establishes the process goals ***and timelines for correcting*** [~~to correct~~] identified deficiencies in ***the achievement of performance*** [~~product~~] goals and ***the interim performance goals. The plan shall be*** [~~is~~] approved by the local board of education and the State Board for Elementary and Secondary Education.

Section 9. KRS 158.680 is amended to read as follows:

There shall be appointed by the Governor a State Advisory Committee for Educational Improvement in accordance with the following:

(1) The State Advisory Committee for Educational Improvement shall be eighteen (18) members broadly representative of citizens, parents, teachers and administrators. Their principal duties shall be to advise the Governor, the State Board for Elementary and Secondary Education and the department ***on*** [~~in~~] the implementation of the provisions of KRS ***158.650 to 158.710 and Sections 4 and 5 of this Act*** [~~158.660 to 158.750~~].

(2) All members shall be voting members appointed by the Governor and shall serve terms of four (4) years, except that the original appointments will be made as follows:

(a) Five (5) members for four (4) year terms;

(b) Five (5) members for three (3) year terms;

(c) Four (4) members for two (2) year terms; and

(d) Four (4) members for a one (1) year term.

(3) The State Advisory Committee for Educational Improvement shall elect a chairman annually from its membership;

(4) The members shall be remunerated for actual and necessary expenses incurred while attending meetings of the State Advisory Committee for Educational Improvement or while serving in the capacity as representative of the State Advisory Committee for Educational Improvement.

(5) The State Advisory Committee for Educational Improvement shall meet at least three (3) times each year at [~~such~~] times and places as it determines by resolution.

Section 10. KRS 158.685 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall ***adopt administrative regulations establishing*** [~~establish~~] standards which school districts shall meet in ***student,*** program, [~~and~~] service ***and operational performance*** [~~offerings and set forth the minimum performance for students in the basic skills pursuant to KRS 158.660~~].

(2) The State Board for Elementary and Secondary Education shall declare a school district to be educationally deficient when, in any school year, the district fails to meet [~~or make satisfactory progress toward meeting~~] minimum ***student,*** program, [~~and~~] service ***or operational performance*** standards [~~or an insufficient number of students, as defined by State Board for Elementary and Secondary Education administrative regulations, fail to attain or fail to make satisfactory progress toward meeting standards set for the basic skills established pursuant to subsection (1) of this section~~].

(3) The ***chief state school officer*** [~~superintendent of public instruction, upon approval of the state board for elementary and secondary education,~~] shall provide consultation and assistance to any school district which has been declared educationally deficient by the State Board for Elementary and Secondary Education [~~in eliminating the deficiency~~]. The school ***district*** [~~districts~~] shall be provided consultation and guidance relative to programs, services, finances, personnel, and any other areas ***where*** [~~wherein~~] appropriate changes would be reasonably calculated to eliminate or alleviate the deficiency and in developing and implementing ***a district*** [~~an educational~~] improvement plan pursuant to KRS 158.710. ***The*** [~~Such~~] changes[~~, whenever allowable under Kentucky Revised Statutes,~~] may include [~~more expeditious correction of accreditation report deficiencies,~~] improved personnel administration, more efficient management practices and other administrative and academic actions to improve the local ***district's*** [~~districts'~~] performance. ***The Department of Education shall submit to the local board and superintendent a list of the services and technical assistance the department shall provide. The services listed may include activities and programs offered for the improvement of all districts. The list of services shall be attached to the district improvement plan when it is submitted to the State Board for Elementary and Secondary Education for approval.***

(4) Failure by an educationally deficient school district to ***meet the process goals, interim performance goals, or timelines set in the district improvement plan*** [~~implement the approved educational improvement plan shall be grounds for the superintendent of public instruction, with the concurrence of the State Board for Elementary and Secondary Education, to intervene in the operation of a local school district and limit the authority of the local superintendent and local board of education to act in the following areas:~~

~~(a) Expenditure of funds;~~

~~(b) Employment and dismissal of personnel;~~

~~(c) Establishment and modification of the school calendar;~~

~~(d) Instructional program and policies;~~

~~(e) Student code of conduct; and~~

~~(f) Other areas as may be designated by State Board for Elementary and Secondary Education administrative regulation.~~

~~(5) Action initiated pursuant to subsection (4)(b) of this section, relative to employment and dismissal of personnel, shall be in accordance with the provisions of KRS 161.720 to 161.810 and 161.990. To facilitate the implementation of the educational improvement plan in an educationally deficient school district, the superintendent of public instruction, with the approval of the state board for elementary and secondary education, may require an annual reallocation of an amount not to exceed twenty-five percent (25%) of the power equalization program funds received by the district to address program and service needs outlined in the educational improvement plan.~~

~~(6) Failure to implement the educational improvement plan~~] shall constitute grounds for removal ***of the superintendent and local board members*** from office ***and this action shall be initiated by the chief state school officer*** pursuant to KRS 156.132 ***and*** [~~to~~] 156.136. ***The district shall also be declared an education development district. The State Board for Elementary and Secondary Education shall appoint the members of the district's board of education which shall have all the powers, duties, and responsibilities of an elected board except as provided in this section. The appointed members shall serve a four (4) year term or until the district qualifies for an elected board and the duly elected members have taken office, whichever occurs first. When a new superintendent of schools is selected by the local board, the chief state school officer shall approve the selection before the appointment shall become official. The local board shall revise the district improvement plan with the assistance of the Department of Education. The Department of Education shall continue to provide the district consultation and assistance pursuant to subsection (3) of this section. Local board elections shall resume in the first even-numbered year following two (2) consecutive years of meeting the performance standards set by the State Board for Elementary and Secondary Education.*** This section shall not [~~be deemed to~~] create a statutory cause of action for educational malpractice by students, their parents or guardians.

Section 11. KRS 158.710 is amended to read as follows:

Each ***educationally deficient district and education development*** [~~local school~~] district [~~in the state~~] shall assume the following responsibilities and functions in implementing the provisions of KRS ***158.680 to 158.710*** [~~158.660 to 158.750~~]:

(1) ***The*** [~~Each local school~~] district shall develop a plan to improve the education of all students ***enrolled*** in ***preschool and the primary program*** [~~grades one (1)~~] through ***grade*** twelve (12). In developing ***the plan*** [~~these plans~~] and prior to [~~their~~] approval by the local board of education, ***the district*** [~~local districts~~] shall involve local citizens, parents, students, teachers, and administrators. ***The district, pursuant to*** [~~School districts declared to be educationally deficient by the State Board for Elementary and Secondary Education under~~] KRS 158.685, shall involve Department of Education consultants in the development of ***the*** [~~their~~] plan;

(2) [~~Each local district board of education shall by May 1, 1983, and every three (3) years thereafter, submit to the state Department of Education for approval a local plan for educational improvement which will be in effect for three (3) years or until such time as it is revised, whichever occurs first. If a plan is revised, succeeding plans will be submitted to the state Department of Education every three (3) years from the date of revision. School districts declared to be~~] Educationally deficient ***districts and education development districts pursuant to*** [~~by the State Board for Elementary and Secondary Education under~~] KRS 158.685 shall submit a plan each year ***or more frequently if ordered by the State Board for Elementary and Secondary Education listing new process goals, the interim performance goals, and timelines*** until the deficiency has been eliminated;

(3) Local school personnel shall ascertain areas of strength and areas ***needing*** [~~of needed~~] improvement in the school program as revealed by the test results and other student assessments and with the advice and counsel of the representatives mentioned in subsection (1) of this section, shall develop appropriate programs to address educational areas ***needing*** [~~of needed~~] improvement for ***all students in preschool and the primary program*** [~~grades one (1)~~] through ***grade*** twelve (12);

(4) The ***district*** [~~educational~~] improvement plan developed and submitted [~~by each local school district~~] to the department shall include the following:

(a) ***Performance*** [~~Process~~] goals ***or interim performance goals***;

(b) Product goals;

(c) A list of individuals, by occupation, or groups involved in developing the plan;

(d) The areas of needed improvement as revealed by the district assessment results;

(e) A list of priorities for program implementation;

(f) The objectives and activities deemed appropriate and necessary for alleviating the observed educational areas of needed improvement;

(g) A calendar of events ***and*** [~~, or~~] timeline, for implementation;

(h) A brief report, each succeeding year ***or more frequently if required by the State Board for Elementary and Secondary Education*** after submission of the initial plan, of the program status and [~~of~~] progress made in areas of needed improvement.

***(5) The district improvement plan shall be coordinated with the master staff development plan and the Department of Education shall provide technical assistance in the planning, implementation, and evaluation of this coordination.***

***(6) Effective June 30, 1996, KRS 158.650 to 158.710 shall become null and void.***

Section 12. KRS 156.095 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall establish, direct and maintain a statewide program of ***professional development to improve*** [~~in-service teacher training for the purpose of improving~~] instruction in the public [~~common~~] schools [~~and for the improvement of the leadership qualities and professional competence of principals, supervisors and teachers and for such other services in the improvement of instruction in the public common schools as may be approved from time to time by the State Board for Elementary and Secondary Education~~].

(2) Each local school district ***superintendent*** [~~board for elementary and secondary education~~] shall appoint a certified school employee to fulfill the role and responsibilities of ***a professional development coordinator*** [~~an in-service education director~~]. The manner of appointment, qualifications, and duties of the ***professional development coordinator*** [~~in-service education director~~] shall be as established by State Board for Elementary and Secondary Education regulations.

(3) The State Board for Elementary and Secondary Education shall provide an annual training program for local school district ***professional development coordinators*** [~~in-service education directors~~]. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment; instruction in methods to involve both teachers and administrators in actively planning, delivering and evaluating programs; presenting options for meeting ***professional development*** [~~in-service~~] needs, especially through individualized programs; and identification of resources needed for quality, motivational ***professional development*** [~~in-service~~] programs.

(4) The State Board for Elementary and Secondary Education shall provide for a series of state sponsored, ***professional development*** [~~in-service education~~] programs for ***certified personnel*** [~~teachers~~] throughout the Commonwealth. ***Professional development shall focus on the following areas during the 1990-91 and 1991-92 school years;***

***(a) The Kentucky Education Reform Act of 1990;***

***(b) School-based decision making;***

***(c) Performance-based student assessment;***

***(d) Non-graded primary programs;***

***(e) Research-based instructional practices;***

***(f) Instructional uses of technology; and***

***(g) Effective awareness and sensitivity training so teachers can motivate and nurture students of diverse cultures*** [~~The programs shall be of one (1) day duration and located at selected sites statewide. The State Board for Elementary and Secondary Education shall request that each school district permit teachers to earn credit for one (1) in-service education day through attendance at the state sponsored program. No tuition or fees shall be charged teachers attending state sponsored in-service programs, although participants shall be responsible for travel and other expenses. Educational content of state sponsored in-service programs shall be as determined by the State Board for Elementary and Secondary Education~~].

(5) The Department of Education shall ***provide professional development activities at times and locations which are convenient for school personnel. During the 1990-91 and 1991-92 school years, school districts shall use the four (4) days designated for professional development in KRS 158.070 to acquire skills and knowledge in the areas listed in subsection (4) of this section. The master professional development plan shall reflect the districts' choices from the required areas for the 1990-91 and 1991-92 school years. A district's master professional development plan which has been developed in conjunction with the district improvement plan pursuant to KRS 158.685, shall be exempt from the requirements of this subsection*** [~~employ professional staff whose primary responsibility shall be the provision of assistance to local districts in developing in-service education programs, evaluation of the quality of existing in-service programs, identification of resource persons to assist with presentations, and other duties related to the development, evaluation and improvement of local plans for in-service education of teachers.~~

~~(6) The State Board for Elementary and Secondary Education may provide limited funding on a one-time basis to assist in the development and presentation of demonstration in-service programs in selected local school districts.~~

~~(7) All teachers who have the aides in their classrooms shall receive in-service training as specified by the State Board for Elementary and Secondary Education on the effective utilization and evaluation of the aides~~].

***(6)***[~~(8)~~] Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section ***if*** [~~provided~~] they meet the standards for ***professional development*** [~~in-service training programs~~] established by the State Board for Elementary and Secondary Education.

SECTION 13. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) During the 1990-91 school year, the school district shall receive a planning grant to be used in conjunction with other districts to plan for professional development activities through the 1994-95 school year. By June 30, 1991, each district, except those districts with an enrollment of sixty-five thousand (65,000) or more students, shall have joined a consortium involving two (2) or more districts and shall have submitted a preliminary professional development plan to the Department of Education. The plan shall describe the way the consortium will utilize the professional development activities available from the Department of Education described in Section 12 of this Act during the 1991-92 school year and outline in general terms the types of professional development and the delivery mechanism which will be used during the 1992-***

*93, 1993-94, and 1994-95 school years. When a consortium is operational, a consortium plan may replace plans for individual districts which are members of the consortium.*

*(2) During the school years 1992-93 through 1994-95, the consortia shall receive the districts' professional development funds to provide a high quality, coordinated professional development program to the staff of the member districts.*

*(3) After July 1, 1995, a school district shall be allowed to withdraw from the consortium and expend its professional development funds on any professional development activities it chooses.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

*(1) The term "teacher" for the purpose of this section means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, or head teachers.*

*(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district. The policy shall address and comply with the following provisions:*

*(a) Each participating school shall form a school council which shall be composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be relatives of any employee of the school.*

*(b) All certified staff at a school may be participants in the school-based decision making process. The staff shall divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, or special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) school year. The committee shall submit its recommendations to the school council for consideration.*

*(c) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.*

*(d) The meetings of the school council shall be open to the public and all interested persons may attend.*

*(e) Each year the local board shall determine the total funds available to the participating school for staffing purposes. The school council shall then determine within the parameters of the total available funds the number of persons to be employed in each job classification at the school.*

*(f) The school council shall determine which instructional materials and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.*

*(g) From a list of applicants recommended by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process.*

*(h) The school council shall have the authority to act in the following additional areas:*

*1. Determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal;*

*2. Assignment of all instructional and non-instructional staff time;*

*3. Assignment of students to classes and programs within the school;*

*4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and year as established by the local board;*

*5. Determination of use of school space during the school day;*

*6. Planning and resolution of issues regarding instructional practices;*

*7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal; and*

*8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision.*

*(3) The policy adopted by the local board to implement school-based decision making shall also address the following:*

*(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and accounting and auditing;*

*(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;*

*(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;*

*(d) Professional development plans developed pursuant to Sections 12 and 13 of this Act;*

*(e) Method of selection of parent members of the school council;*

*(f) Parent, citizen, and community participation including the relationship of the council with other groups;*

*(g) Cooperation and collaboration within the district, with other districts and with other public and private agencies;*

*(h) Requirements for waiver of district policies; and*

*(i) Requirements for record keeping by the school council.*

*(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law.*

*(5) After the effective date of this Act, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon a favorable vote of a majority of the faculty at the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to Section 5 of this Act may apply to the State Board for Elementary and Secondary Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption.*

*(6) The Department of Education shall develop sample guidelines to assist local boards in the development of their policies, and the department shall provide professional development activities to assist schools in implementing school-based decision making.*

Section 15. KRS 157.317 is amended to read as follows:

*(1)* The *State Board for Elementary and Secondary* [~~Department of~~] Education *through administrative regulations* shall develop and implement a statewide *early childhood education* [~~kindergarten~~] program which shall include basic principles of child development, early childhood education, and all other related concepts which deal with generally accepted *early childhood* [~~kindergarten~~] programs*, including the delivery of health and social services to children as needed.*

*(2) (a) The Kentucky Early Childhood Advisory Council is created to advise the chief state school officer on the implementation of early childhood education programs. The Department of Education shall provide staff and administrative support for the council.*

*(b) The Kentucky Early Childhood Advisory Council shall consist of one (1) member of the State Board for Elementary and Secondary Education appointed by the chairman and fourteen (14) members appointed by the Governor. The fourteen (14) appointed members shall include one (1) representative from each of the following agencies or groups: preschool teachers, public school teachers, elementary school principals, parents, child care providers, community education, the Interagency Task Force on Family Resource Centers and Youth Services Centers, the Head Start Association, the Infant/Toddler Coordinating Council, the Department for Health Services, the Department for Social Services, the Department for Social Insurance, the colleges of education, and the colleges of home economics.*

*(c) Members shall serve a four (4) year term, except initial appointments shall be set so that three (3) members shall serve one (1) year, three (3) members shall serve two (2) years, four (4) members shall serve three (3) years, and four (4) members shall serve four (4) years.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

*(1) Beginning with the 1990-91 school year, it shall be the responsibility of each local school district to provide a developmentally appropriate half-day preschool education program to meet the education and related needs of each child who is four (4) years of age by October 1 of each year and at risk of educational failure. All other four (4) year old children shall be served to the extent placements are available. The State Board for Elementary and Secondary Education, upon the recommendation of the chief state school officer, shall adopt administrative regulations establishing the guidelines for the program. Administrative regulations shall establish eligibility criteria, program guidelines, and standards for personnel.*

*(2) "Developmentally appropriate preschool program" means a program which focuses on the physical, intellectual, social, and emotional development of young children. The preschool program shall help children with their interpersonal and socialization skills.*

*(3) Funds appropriated by the General Assembly for the preschool education programs shall be granted to local school districts according to a grant allotment system approved by the State Board for Elementary and Secondary Education. Children who are at risk shall be identified based on the federal school lunch program eligibility criteria for free lunch. Appropriations shall be separate from all other funds appropriated to the Department of Education.*

*(4) The chief state school officer shall receive and review proposals from local school districts for grants to operate or oversee the operation of developmentally appropriate preschool education programs. Districts may submit proposals for implementing new services, enhancing existing preschool education services, or contracting for services.*

*(5) Each program proposal shall include, at a minimum:*

*(a) A description of the process conducted by the district to assure that the parents or guardians of all eligible participants have been made aware of the program and of their right to participate;*

*(b) A description of the planned educational programming and related services;*

*(c) The estimated number of children participating in the program;*

*(d) Strategies for involving children with disabilities;*

*(e) Estimated ratio of staff to children with the maximum being one (1) adult for each ten (10) children;*

*(f) The estimated percentage of children participating in the program who are at risk of educational failure;*

*(g) Information on the training and qualifications of program staff and documentation that the staff meet required standards;*

*(h) A budget and per-child expenditure estimate;*

*(i) A plan to facilitate active parental involvement in the preschool program, including provisions for complementary parent education when appropriate;*

*(j) Facilities and equipment which are appropriate for young children;*

*(k) The days of the week and hours of a day during which the program shall operate;*

*(l) A plan for coordinating the program with existing medical and social services, including a child development and health screening component;*

*(m) Assurances that participants shall receive breakfast or lunch;*

*(n) Program sites which meet state and local licensure requirements;*

*(o) A plan for coordinating program philosophy and activities with the local district's primary school program; and*

*(p) An evaluation component.*

*(6) Programs shall reflect an equitable geographic distribution representative of all areas of the Commonwealth.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

*(1) Effective with the 1991-92 school year, any child who has been identified as handicapped in accordance with Public Law 94-142 as amended by Public Law 99-457, or as exceptional by KRS 157.220 and corresponding administrative regulations, and who is three (3) or four (4) years of age, or who may become five (5) years of age after October 1 of the current year, shall be eligible for a free and appropriate preschool education and related services.*

*(2) The General Assembly shall provide funds to be used for preschool education programs and related services for handicapped children. Appropriations shall be separate from all other state funds appropriated to the Department of Education and shall be administered in accordance with applicable state statutes and administrative regulations and Public Law 94-142 as amended by Public Law 99-457.*

*(3) Eligible local school districts shall receive funds based on the number of appropriately identified handicapped children being served on December 1 of the prior year, except during the 1991-92 school year funds shall be allotted based on the number of children being served on September 30, 1991. Local school districts may develop cooperative arrangements with other school districts or organizations in accordance with KRS 157.280.*

*(4) The State Board for Elementary and Secondary Education shall adopt administrative regulations related to the administration and supervision of programs, eligibility criteria, personnel requirements, and the use of funds.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of fifteen (15) members appointed by the Governor. The fifteen (15) members appointed shall include one (1) representative from each of the following agencies or groups:*

*(a) Department of Education;*

*(b) Department for Employment Services of the Cabinet for Human Resources;*

*(c) Department for Health Services of the Cabinet for Human Resources;*

*(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;*

*(e) Department for Social Services of the Cabinet for Human Resources;*

*(f) Department for Social Insurance of the Cabinet for Human Resources;*

*(g) Justice Cabinet;*

*(h) Governor's Office;*

*(i) Workforce Development Cabinet;*

*(j) Parents;*

*(k) Teachers;*

*(l) Local school administrators;*

*(m) Local school boards;*

*(n) Local community mental health-mental retardation programs; and*

*(o) Local health departments.*

*(2) The task force shall be appointed and begin to meet immediately upon the effective date of this Act to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of economically disadvantaged children and their families. The chief state school officer shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Department of Education shall provide adequate staff to assist in the development and implementation of the task force's plan.*

*(3) The plan developed by the task force shall include a five (5) year effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or adjacent to each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are*

*eligible for free school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:*

*(a) Full-time preschool child care for children two (2) and three (3) years of age;*

*(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;*

*(c) Families in training, which shall consist of an integrated approach to home visits, group meetings and monitoring child development for new and expectant parents;*

*(d) Parent and child education (PACE) as described in KRS 158.360;*

*(e) Support and training for child day care providers; and*

*(f) Health services or referral to health services, or both.*

*(4) The plan developed by the task force shall include a five (5) year schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or adjacent to each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:*

*(a) Primary and preventive health services;*

*(b) Referrals to health and social services;*

*(c) Employment counseling, training and placement;*

*(d) Summer and part-time job development;*

*(e) Drug and alcohol abuse counseling;*

*(f) Family crisis and mental health counseling; and*

*(g) Teenage pregnancy prevention services.*

*(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth of the eligible schools, with expansion by one-fourth by June 30 of each year thereafter until the centers have been established in or adjacent to all eligible schools.*

*(6) A grant program is hereby established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The State Board for Elementary and Secondary Education shall promulgate administrative regulations to establish criteria for the awarding of the grants. The grant applications shall be reviewed by the task force, which shall make its recommendations to the State Board for Elementary and Secondary Education.*

*(7) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1995, at which time the task force shall cease to exist. During its existence the task force shall report at least annually to the State Board for Elementary and Secondary Education, the Governor, and the Legislative Research Commission.*

*(8) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 19 to 22 of this Act unless the context indicates otherwise:*

*(1) "Council" means the Council for Education Technology.*

*(2) "Technology" includes, but is not limited to, computers, telecommunications, cable television, interactive video, film, low-power television, satellite communications, and microwave communications*

SECTION 20. A NEW SECTION OF KRS CHAPTER 168 IS CREATED TO READ AS FOLLOWS:

*The General Assembly of the Commonwealth of Kentucky recognizes that technology plays an important role in enlarging and enriching the school experiences of students and is vital to an efficient system of public schools.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby established the Council for Education Technology which shall be an advisory group attached to the State Board for Elementary and Secondary Education. The Council shall develop a specific plan for education technology within broad parameters established by the State Board for Elementary and Secondary Education.*

*(2) The council shall consist of fifteen (15) members who shall be appointed by the Governor, with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes. Members shall be acknowledged leaders in research, technology, economic development, education, business, intergovernmental relations, and the local community. Membership shall not be restricted to Kentucky residents, and every effort shall be made to obtain the services of those whose intelligence and knowledge of education and technology will be of greatest benefit to the Commonwealth. A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.*

*(3) Members shall be appointed for four (4) year terms and may be reappointed. Upon the effective date of this Act, the initial members of the board shall be appointed as follows: four (4) members shall be appointed for terms of two (2) years; five (5) members shall be appointed for terms of three (3) years; and six (6) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.*

*(4) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.*

*(5) At the organizational meeting, or at any subsequent meeting, the council may elect an executive committee, not fewer than three (3) in number. The council shall define the scope, duties, and powers of the executive committee to transact business between meetings.*

*(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The State Board for Elementary and Secondary Education shall provide staff support for the council.*

*(7) The duties and responsibilities of the council shall include, but not be limited to, the following:*

*(a) Developing a long range plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, instructional management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in Section 3 of this Act;*

*(b) Creating, overseeing, and monitoring a well planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;*

*(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;*

*(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;*

*(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and*

*(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) By July 1, 1991, the council shall develop recommendations for an initial five (5) year plan for education technology and submit the plan to the Legislative Research Commission for approval. The plan shall outline the Commonwealth's five (5) year activities related to purchasing, developing and using technology to:*

*(a) Improve learning and teaching and the ability to meet individual students' needs to increase student achievement;*

*(b) Improve curriculum delivery to help meet the needs for educational equity across the state;*

*(c) Improve delivery of professional development;*

*(d) Improve the efficiency and productivity of administrators; and*

*(e) Encourage development by the private sector and acquisition by districts of technologies and applications appropriate for education.*

*(2) The five (5) year plan shall cover all aspects of education technology, including but not limited to, its use in educational instruction and administration, video and computer systems, software and hardware, multiple delivery systems for satellite, microwave, cable, instructional television fixed service, fiber optic, and computer connections products, the preparation of school buildings for technological readiness, and the development of staff necessary to implement the plan.*

*(3) The five (5) year plan shall include specific recommendations to the State Board for Elementary and Secondary Education for the adoption of administrative regulations to establish and implement a uniform and integrated system of standards and guidelines for financial accounting and reporting which shall be used by all school districts. These recommendations may be submitted in advance of the total plan.*

*(4) The integrated technology based communications system shall provide comprehensive, current, accurate, and accessible information relating to management, finance, operations, instruction, and pupil programs which are under the jurisdiction of the Department of Education. The system shall be operational by October 1, 1991.*

*(5) To facilitate communication among teachers, parents, students, and prospective employers of students, and to provide access to many vital technological services, the five (5) year plan shall include the installation of a telephone in each classroom.*

*(6) In designing and implementing the five (5) year plan, the council shall consider seeking the active participation of private organizations whose knowledge and assistance will be useful.*

*(7) The council shall update as necessary the plan developed under subsection (2) of this section.*

*(8) The council shall submit its recommendations to the State Board for Elementary and Secondary Education, which shall accept the recommendations, or return them to the council along with suggestions for changes to make the recommendations consistent with the policies of the State Board for Elementary and Secondary Education.*

SECTION 23. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*The State Board for Elementary and Secondary Education shall initiate a program to assist and encourage each certified teacher to purchase a computer for his own personal use. The program shall include, but not be limited to, the following:*

*(1) The State Board for Elementary and Secondary Education shall obtain by competitive bidding or negotiation the lowest possible purchase price for personal computers on behalf of all interested teachers.*

*(2) The State Board for Elementary and Secondary Education shall arrange a suitable training program in the use of these computers with the vendor awarded the contract.*

SECTION 24. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

*Effective for tax years beginning on or after January 1, 1990, there shall be allowed as a non-refundable credit against the tax imposed under KRS 141.020 an amount equal to fifty percent (50%) of the purchase price of a computer up to the state contract price for approved computers purchased under the program provided for in Section 23 of this Act, in the taxable year of purchase.*

Section 25. KRS 168.100 is amended to read as follows:

The authority shall have no power of taxation, nor is it vested with the police power of the Commonwealth.

except insofar as the exercise of the power of eminent domain may be deemed a part thereof. Otherwise, in general terms, it shall have and is hereby given all such constitutional powers as are necessary to its accomplishment of the purpose and implementation of the public policy set forth in KRS 168.010. Without limiting the generality of the foregoing, but only for assurance to parties [~~from time to time~~] transacting business with the authority, and who may demand and be entitled to assurance, the following specific powers are hereby vested in the authority:

(1) To receive and use in the furtherance of its lawful objectives [~~such~~] state funds as may be appropriated or allotted to it [~~from time to time~~], any funds received for services rendered under contract or from the sale of property owned by it, and contributions, matching funds, gifts, bequests and devises from any source, whether state or federal, and whether public or private; unless the same be tendered subject to one or more conditions which are inconsistent with KRS 168.010 to 168.100, or otherwise unlawful;

(2) To make contracts and agreements whereunder the authority may undertake to provide educational television facilities and related functions and facilities to or for any public body of the state or federal government in furtherance of educational television or in aid of any other public function. [~~; provided,~~] However, it shall be an express provision of every such contract that the authority will not undertake to transmit or relay, and will not permit any other party to transmit or relay, in the use of the authority's television facilities, any subversive matter, any political propaganda, or any image or message in the interests of any political party or candidate for public office; or be used by, or in aid of, any church, sectarian or denominational school; but this proviso is not intended and shall not be construed to be a limitation upon dissemination by the authority of legitimate objective instructional material which is properly related to the study of history or of current events, or which is no more than factually informative, of current issues of government or of various political ideologies;

(3) To produce, prepare, transmit and relay, either from life or by recording on tape or films, educational television programs and related services ***coordinated*** [~~not inconsistent~~] with the curricula prescribed or approved for the public schools of the Commonwealth by the department or the board ***pursuant to Section 3 of this Act***;

(4) To purchase or lease from others, or to contract with others for the use of, or the right to transmit or relay similar educational television programs and related services, whenever in the opinion of the authority the same are suitable and cannot be produced as effectively or economically through the use of its own facilities;

(5) To purchase, lease or otherwise acquire, and to operate, television and related facilities deemed by the authority to be necessary in the furtherance of its lawful objectives; and in this connection to acquire property by the exercise of the power of eminent domain, in the manner authorized for the Department of Highways by the Eminent Domain Act of Kentucky, whenever the same cannot be purchased, leased, or otherwise acquired at a reasonable price after reasonable negotiations with the owner or owners. In all such matters, the authority shall be subject to the provisions of KRS Chapters 45 and 56;

(6) To prescribe standards for receiving instruments which are purchased in the future for use in the public schools, in order that reception of educational television programs and related services may be acceptable and in conformity with the manner of transmission thereof; and to disseminate such standards together with technical information with regard to installations and use of receiving instruments to all of the public school districts, or to such as may request the same;

(7) In its discretion and within the limitation of availability of funds from any sources, to:

(a) Establish a program of matching funds as an inducement to public school districts to purchase and install proper facilities for receiving and utilizing educational television programs and related services, especially in situations where by reason of topographical difficulties of reception, special antennas or other equipment may be required, ***and*** [~~and/or~~]

(b) If so requested by the boards of education of a sufficient number of public school districts, to purchase through the Finance and Administration Cabinet, subject to the provisions of KRS Chapter 45, receiving instruments on their behalf on a wholesale basis for the purposes of economy, any such purchases to be on a public competitive basis after due advertisement according to law, but restricted to such receiving instruments as meet the standards prescribed by the authority.

Section 26. KRS 158.030 is amended to read as follows:

(1) "Common school" means an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a certified teacher for a minimum school term as defined by KRS 158.070 and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6)

years of age by October 1, shall attend public school or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a ***primary*** [~~public~~] school ***program, as defined in subsection (2) of this section*** [~~kindergarten~~].

(2) ***"Primary school program" means that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade.*** Notwithstanding any statute to the contrary, successful completion of ***the primary school program*** [~~kindergarten~~] shall be a prerequisite for a child's entrance into ***fourth*** [~~first~~] grade. The State Board for Elementary and Secondary Education shall establish, by regulation, methods of verifying successful completion of ***the primary school program pursuant to the goals of education as described in Section 3 of this Act*** [~~kindergarten and extenuating circumstances for which waiver of the above prerequisite may be granted. The local school district, with the approval of the state department of education, may organize the local kindergarten program in the manner most appropriate to the local situation provided the plan assures that each child receives an average of fifteen (15) hours class time per week. Plans may be designed to allow the local district to use five (5) three (3) hour sessions per week; alternate sessions of three (3) days a week with one (1) group and two (2) days a week with a second group with the two (2) groups reversing days every other week; or any other approved plan~~].

Section 27. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the State Board for Elementary and Secondary Education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. [~~No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the State Board for Elementary and Secondary Education.~~] Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the ***chief state school officer*** [~~superintendent of public instruction~~]. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the non-instructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of non-instructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's six (6) hour instructional day, or the time teachers are required to remain at school after the students are dismissed. Except for ***handicapped children and*** children attending ***the primary school program*** [~~kindergarten, readiness classes, first grade classes, and the handicapped,~~] who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the State Board for Elementary and Secondary Education, ***a minimum of*** six (6) hours of actual school work shall constitute a school day. [~~The daily session, including recesses and intermissions, shall not exceed nine (9) hours.~~] The State Board for Elementary and Secondary Education, upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.

Section 28. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days***, including at least one hundred seventy-five (175) instructional days.*** A board of education may extend its term beyond the minimum term [~~set by the superintendent of public instruction~~]. [~~In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.~~]

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the State Board for Elementary and Secondary Education upon the recommendation of the ***chief state school officer*** [~~state superintendent of public instruction~~], which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum ***instructional*** term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for [~~in-service~~] professional development and planning activities for the professional staff without the presence of pupils ***pursuant to the requirements of KRS 156.095 and 158.720***. The ***local*** board [~~of education~~] of ***each*** [~~any~~] school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. ***Each local board may use***[~~;~~] two (2) days for ***planning activities*** [~~the opening and closing of schools~~] without the presence of pupils. ***Each local board may use***[~~, one (1) day of which may be used at the beginning of the second semester;~~] the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky; [~~and~~]

(b) Local disaster which would endanger the health or safety of children***; and***

***(c) Mourning when so designated by the local board of education and approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer*** [~~or mourning when so designated by the district board of education and approved by the state board for elementary and secondary education upon recommendation of the superintendent of public instruction, and shall use one (1) day of excused absence for attendance at the Kentucky state fair for students applying for excused absence for this purpose~~].

(4) The State Board for Elementary and Secondary Education, upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for [~~in-service~~] professional development and planning activities for the professional staff.

***(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.***

***(6) Students applying for excused absence for attendance at the Kentucky state fair shall be granted one (1) day of excused absence.***

***(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in Section 3 of this Act, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years.***

***(8) Notwithstanding any other statute, each school term shall include at least the minimum number of instructional days required by this section.***

***(9) The minimum school term required in subsection (1) of this section shall be increased as follows: one hundred ninety (190) days effective for the 1990-91 school year; one hundred ninety-five (195) days, effective for the 1991-92 school year; and, two hundred (200) days for the 1992-93 school year and thereafter. These increased minimum school terms shall not include more than ten (10) non-instructional days as provided for in subsection (3) of this section.***

Section 29. KRS 158.100 is amended to read as follows:

[~~(1) Each school district shall provide at least an approved twelve (12) grade school service. An approved eight (8) grade service for all pupils residing in the district shall be provided by maintaining the schools. An approved high school service for all children of high school grade under twenty-one (21) years of age residing in the district shall be provided either by maintaining the schools within the county or by contract with another district.~~

~~(2)~~] Notwithstanding any statute to the contrary, [~~effective July 1, 1985, and every year thereafter,~~] each school district shall provide [~~at least~~] an approved ***preschool school program*** [~~kindergarten~~] through twelve (12) grade school service. An approved ***preschool school program*** [~~kindergarten~~] through eight (8) grade school service shall be provided for the children residing in the district by maintaining schools. An approved high school service for all children of high school grade under twenty-one (21) years of age residing in the district shall be provided either by maintaining the schools within the district or by contract with another district. ***The board of education of any school district, subject to the approval of the chief state school officer, may establish night schools, industrial schools, and other schools for the residents of the district as it deems advisable.***

Section 30. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030, each parent, guardian or other person residing in the state and having in custody or charge any child who has entered ***the primary school program*** [~~kindergarten~~] or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.

(2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or non-public education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian or other custodian. Written notification of withdrawal must be received from his parent, guardian or other person residing in the state and having custody or charge of him sixty (60) days prior to withdrawal. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance. During the sixty (60) day period the parent(s) and child shall be required to attend a one (1) hour counseling session where they shall view a media presentation prepared by the department of education which shows economic statistics and other information on potential problems of non-graduates.

(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

***(4) The commissioner of education shall make a recommendation to the 1992 regular session of the General Assembly on raising the compulsory school age to eighteen (18) years of age for students who have not earned a diploma.***

Section 31. KRS 159.020 is amended to read as follows:

Any parent, guardian or other person having in custody or charge any child who has entered ***the primary school program*** [~~kindergarten~~] or any child between the ages of six (6) and sixteen (16) who removes the child from a school district during the school term shall enroll the child in a regular public day school in the district to which the child is removed, and the child shall attend school in the district to which he is removed for the full term provided by that district.

Section 32. KRS 156.160 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall adopt ***administrative*** [~~rules and~~] regulations ***establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in Section 3 of this Act. Administrative regulations shall be adopted for the following*** [~~relating to~~]:

(a) [~~Minimum~~] Courses of study for the different grades and kinds of common schools, ***including procedures for developing an ungraded primary program which shall be implemented by the beginning of the 1992-93 school year;***

***(b) The acquisition and use of*** [~~and regulations governing~~] educational equipment ***for*** [~~of~~] the schools ***as recommended by the Council for Education Technology***;

***(c)***[~~(b) Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and~~] The minimum requirements for ***high school*** graduation. ***Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in Section 3 of this Act*** [~~from the courses offered~~];

***(d)***[~~(c)~~] Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

***(e)***[~~(d)~~] Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board ***for Elementary and Secondary Education*** shall adopt the uniform state building code;

***(f)***[~~(e)~~] Medical inspection, physical ***and health*** education and recreation, and other [~~rules and~~] regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. ***The regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in Section 3 of this Act;***

***(g)***[~~(f)~~] The transportation of children to and from school;

***(h)***[~~(g)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

***(i)***[~~(h)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

***(j)***[~~(i)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; ***and***

***(k)***[~~(j)~~] The disposal of real and personal property owned by local boards of education.

(2) ***Any local school district may request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, or any state regulation required by a federal law shall not be subject to waiver.***

***(3)*** Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

Section 33. KRS 156.445 is amended to read as follows:

(1) No textbook shall be used in any public school in Kentucky as a basal textbook unless it has been approved and listed on the state multiple list of textbooks by the state textbook commission ***or unless a school district has applied for and received a waiver of this requirement from the State Board of Elementary and Secondary Education pursuant to subsection (2) of this section***. Any changes of textbooks made by the state textbook commission shall not become effective until grades and classes of the respective county and independent school districts have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time.

(2) ***A local school board may apply to the State Board for Elementary and Secondary Education to adopt a basal textbook which is not on the multiple list by submitting evidence that the textbook it has chosen meets the selection criteria of the state textbook commission in KRS 156.405(3)(a) and the subject specific criteria of the textbook reviewers pursuant to KRS 156.407(6). The State Board for Elementary and Secondary Education shall accept reasonable requests and reimburse the local board for the amount of its books or up to the highest cost of the books on the multiple list, whichever is less.***

***(3)*** In approving text materials for private and parochial schools for the purpose of KRS 156.160(2)such text materials shall be approved if they are comprehensive and appropriate to the grade level in question notwithstanding the fact that they may contain elements of religious philosophy.

## PART II - GOVERNANCE

SECTION 34. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***For purposes of KRS Chapters 156 through 168, "chief state school officer" shall mean the Superintendent of Public Instruction until the close of business on June 30, 1991, and after that date it shall mean the commissioner of education.***

Section 35. KRS 156.031 is amended to read as follows:

(1) ***Effective until the Governor appoints and the Senate and the House of Representatives of the General Assembly confirm the State Board for Elementary and Secondary Education as established in Section 36***

***of this Act,*** there is [~~hereby established~~] within the Department of Education a State Board for Elementary and Secondary Education which shall consist of thirteen (13) members. Seven (7) members shall be appointed, one (1) from each Supreme Court district, as established by KRS 21A.010, and six (6) members from the state at large, by the Governor to serve for terms of four (4) years. [~~The members of the state board of education shall comprise the original members of the board and serve in such capacity for the remainder of their terms.~~]

(2) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(3) Vacancies in the membership of the board shall be filled by the Governor for unexpired terms. Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The Superintendent of Public Instruction or his designee shall be the executive officer of the board.

(6) The primary function of the board shall be to develop and adopt policies and administrative regulations by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services and activities within the Department of Education which are within the jurisdiction of the board.

SECTION 36. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established a State Board for Elementary and Secondary Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the executive director of the Council on Higher Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.***

***(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.***

***(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.***

***(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.***

***(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.***

***(6) The commissioner of education shall serve as the executive secretary to the board.***

***(7) The primary function of the board shall be to develop and adopt policies and administrative regulations by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services and activities within the Department of Education which are within the jurisdiction of the board.***

SECTION 37. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created an Education Management Selection Commission. The commission shall consist of six (6) members to be appointed as follows: Three (3) by the Governor, one (1) by the President Pro Tempore of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) jointly by the President Pro Tempore and the Speaker. The commission is temporary in nature and shall terminate after the State Board for Elementary and Secondary Education has signed a contract of employment with***

the first commissioner of education. The members shall serve without compensation, but shall be reimbursed for their reasonable and necessary actual expenses.

***(2) The commission shall conduct a national search to identify the best qualified individual for the State Board for Elementary and Secondary Education to appoint as the first commissioner of education to carry out the duties of the chief state school officer. The individual shall be agreed upon by a unanimous vote of all of the members of the commission.***

***(3) The commission shall meet as soon as practicable after it is constituted. The members shall elect a chairperson, who shall be responsible for convening future meetings. The Governor's Office and the Legislative Research Commission shall provide staff support to the commission.***

Section 38. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University and Murray State University, ***and members of the State Board for Elementary and Secondary Education shall*** [~~may~~] not be removed except for cause.

Section 39. KRS 156.040 is amended to read as follows:

(1) The members of the State Board for [~~Vocational-Technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~Services and the State Board for Elementary and Secondary Education~~] shall have the same qualifications as school board members, except that members [~~of these boards~~] shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(2) Members of the State Board for [~~vocational-technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~services~~] shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

***(3) The members of the State Board for Elementary and Secondary Education shall have the same qualifications as local board members pursuant to KRS 160.180, except the members of the State Board for Elementary and Secondary Education shall be at least thirty (30) years of age and shall have a bachelor's degree from an accredited college or university.***

SECTION 40. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***The first commissioner of education selected in accordance with Section 37 of this Act shall be appointed no later than January, 1991, for a transition period prior to becoming chief state school officer on July 1, 1991. The Superintendent of Public Instruction shall provide office space in the Department of Education; make staff, records, and reports available to the commissioner; and assist in all ways possible during the transition period.***

Section 41. KRS 156.120 is amended to read as follows:

(1) The Superintendent of Public Instruction shall keep his office at the capital in such public buildings as may be provided. ***Until the close of business on June 30, 1991,*** he shall devote his entire time to the duties of his office.

(2) He [~~and his assistants~~] shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred or made by ***him*** [~~them~~] in the performance of ***his*** [~~their~~] official duties, and no part of the reimbursement shall be included in or accounted as a part of ***his salary, but in no case shall the amount spent exceed the amount appropriated in the biennial budget*** [~~their salaries~~]. ***Effective January 6, 1992, the salary of the Superintendent of Public Instruction shall be three thousand dollars ($3,000).***

SECTION 42. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) Effective July 1, 1991, the commissioner of education shall be the chief state school officer. He shall possess the professional qualifications determined by the State Board for Elementary and Secondary Education as appropriate for the office.***

*(2) The commissioner shall be appointed by the State Board for Elementary and Secondary Education, serve at the pleasure of the board, and receive compensation as set by the board.*

*(3) The commissioner of education shall be the executive and administrative officer of the State Board for Elementary and Secondary Education in its administration of all educational matters and functions placed under its management and control. He shall carry out all duties assigned to him by law; shall execute under the direction of the state board the educational policies, orders, directives, and administrative functions of the board; and shall direct the work of all persons employed in the Department of Education.*

*(4) The commissioner of education shall be reimbursed for all actual and necessary traveling expenses incurred by him in the performance of his duties.*

SECTION 43. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) Effective at the close of business on June 30, 1991, all employment positions in the Department of Education shall be abolished and the employment of all employees in the positions shall be terminated. The provisions of KRS Chapter 18A shall not apply to these terminations, except for the provisions regarding health insurance coverage and deferred compensation. Each employee leaving state service as a result of these terminations shall be paid for the balance of his unused compensatory time and unused annual leave.*

*(2) After a comprehensive study of the Department of Education and the goals and duties of the commissioner of education and the department as established under this Act, the commissioner shall reorganize the department, effective July 1, 1991. The reorganization of the department shall incorporate a strong orientation toward providing technical assistance to school districts. After the comprehensive study, which shall include consultations with current department employees, the commissioner shall establish all positions in the department and set the qualifications for the positions, effective no earlier than July 1, 1991. The commissioner may employ staff during the transition period and may rehire any department employees whose employment is terminated at the close of business on June 30, 1991, under this section.*

*(3) This section is in response to a specific court decision demanding specific actions of the General Assembly. The actions authorized by this section are designed for a single time use only in response to the education situation. The actions authorized by this section shall not extend to any other situation or circumstance. In all other instances regarding reorganization, personnel matters, and employee rights, the provisions of KRS Chapter 18A shall apply, and the provisions of this section shall be inapplicable and void.*

Section 44. KRS 156.010 is amended to read as follows:

(1) The Department of Education shall consist of the Superintendent of Public Instruction who shall be the chief executive officer of the department, the organizational structure of the department as set forth in this section, the State Board for Elementary and Secondary Education, and the State Board for *Adult, Vocational Education and Vocational Rehabilitation* [~~vocational-technical, adult education and vocational rehabilitation services~~].

(2) The Superintendent of Public Instruction shall appoint a deputy superintendent for elementary and secondary education, who shall directly supervise an office of instruction, headed by an office head and composed of divisions of accreditation, teacher education and certification, curriculum and staff development, compensatory education, support services, and student services; and an office of education for exceptional children, headed by an office head and composed of divisions of categorical programs, support services, coordinated programs, the Kentucky School for the Blind, and the Kentucky School for the Deaf.

(3) The Superintendent of Public Instruction shall appoint a deputy superintendent for vocational-technical, adult education and vocational rehabilitation services, who shall directly supervise an office of vocational education, headed by an office head and composed of divisions of program services, staff development, support services, and school services; an office of vocational rehabilitation, headed by an office head and composed of divisions of field services, program development, support services, and the Carl D. Perkins comprehensive rehabilitation center; and an office of adult and community education, headed by an office head and composed of divisions of adult basic education, community education, and adult special projects.

(4) The Superintendent of Public Instruction shall appoint a deputy superintendent for research, who shall directly supervise an office of research and planning, headed by an office head and composed of divisions of planning, research, evaluation, and computer services; and an office of communication services, headed by an office head and composed of divisions of media services, recognition and special events, public information, and printing services. The superintendent shall also appoint a deputy superintendent for administration, who shall directly supervise an office of school administration and finance, headed by an office head and composed of divisions of buildings and grounds, pupil transportation, pupil attendance, school district finance, textbook services, surplus property, school food services, and insurance services; and an office of internal administration,

headed by an office head and composed of divisions of purchasing, accounting, budget analysis, facilities management, personnel services, and equal education opportunity. Directly attached and responsible to the Superintendent of Public Instruction also shall be an office of legal services headed by an office head, an assistant who shall be secretary to the State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational*** [~~vocational-technical, adult~~] Education and Vocational Rehabilitation [~~services~~], a chief executive assistant to the superintendent, and an ombudsman responsible for coordination and referral of correspondence from the public as it relates to departmental services and functions.

(5) The Superintendent of Public Instruction shall establish the organizational units below the division level, and arrange the units within the organizational structure of the Department of Education as set forth in subsections (1) to (4) of this section to provide required program and administrative services and assure effective execution of the department's responsibilities. The superintendent shall further, and as appropriate, abolish or assign, within the organizational structure of the Department of Education established by subsections (1) to (4) of this section, those assistant office head positions and principal assistant positions within the department not specifically mentioned in this section but existing as of July 1, 1988.

(6) As of July 1, 1988, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made within the Department of Education to implement the provisions of this section and actions taken pursuant hereto.

(7) The Superintendent of Public Instruction shall have general supervision of all assistants, agents and employees. He shall be responsible for implementing policies promulgated by the State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational*** [~~vocational-technical, adult~~] Education and Vocational Rehabilitation [~~services~~]. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

(8) All employees shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

(9) The Superintendent of Public Instruction, through his appropriate deputy superintendents, assistants, office heads, and division directors, shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, vocational education, vocational rehabilitation, adult and community education, the Kentucky School for the Blind and the Kentucky School for the Deaf, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed. The Department of Education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

(10) The Kentucky School for the Blind advisory board, the Kentucky School for the Deaf advisory board, the State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational*** [~~vocational-technical, adult~~] Education and Vocational Rehabilitation [~~services, the Kentucky council on teacher education and certification~~], the State Advisory Committee for Educational Improvement and the State Textbook Commission shall be administratively attached to the office of superintendent, but each shall continue to exercise all the functions conferred upon it by law.

(11) The state Department of Education, in the operation and management of its schools and the programs at these schools, shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state Department of Education.

(12) The Department of Education shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education[~~, vocational education, vocational rehabilitation and adult education~~].

***(13) The provisions of subsections (1), (2), (3), (4), (5), (6), (9), and (10) of this section shall remain effective until July 1, 1991.***

***(14) Effective July 1, 1991, the commissioner of education shall be the chief executive of the Department of Education. The commissioner shall be responsible for administering, structuring, and organizing the department and its services including, but not limited to, the following:***

***(a) Technical assistance with curriculum design, school administration and finance, computer and technology services, media services, community education, secondary vocational education, education for exceptional children, and professional development;***

*(b) Compensatory education;*

*(c) Research and planning, which shall include, but not be limited to, a statewide research and development effort to identify or develop the best educational practices to be used in the public schools of the Commonwealth. Appropriations for this purpose may be used within the department or for contracting with other individuals, agencies, universities, laboratories or organizations;*

*(d) Kentucky School for the Blind and the Kentucky School for the Deaf;*

*(e) Performance and outcome assessments;*

*(f) Monitoring the management of school districts, including administration and finance, implementation of state laws and regulations, and student performance; and*

*(g) Implementing state laws and the policies promulgated thereunder by the State Board for Elementary and Secondary Education and the Education Professional Standards Board.*

SECTION 45. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*Effective January 1, 1992, the commissioner of education shall establish regional service centers in the Commonwealth that primarily focus on the professional development of employees of school districts. The regional service centers shall be staffed by employees of the Department of Education employed by the commissioner in accordance with Section 43 of this Act. The regional service centers may include, but are not limited to, specially trained technical assistance teams and may facilitate the work of school district cooperatives or consortia.*

SECTION 46. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) Prior to July 1, 1992, the Department of Education shall establish a Principals Assessment Center, which shall consist of the National Association of Secondary School Principals assessment process or a similar validated process. The department may operate assessment centers regionally and shall provide for assessor training.*

*(2) In addition to any applicable certification and experience requirements, to be qualified and eligible for initial or continued employment as a school principal, effective July 1, 1994, the principal or applicant shall have successfully completed the assessment center process. A newly hired principal who is relocating from outside the state to begin his duties after June 30, 1994, shall successfully complete the assessment center process within one (1) year of assuming his duties as principal.*

*(3) The State Board for Elementary and Secondary Education shall adopt administrative regulations to govern the training content, number of hours, written examination, and criteria for successful completion of the assessment center process.*

SECTION 47. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) Prior to July 1, 1992, the Department of Education shall establish a Superintendents Training Program and Assessment Center. The assessment center shall be modeled after the National Association of School Administrators assessment process or a similar validated process. The department may provide assessment centers regionally and shall provide for assessor training. The center shall include, but not be limited to, training for superintendents in the following subjects:*

*(a) Core concepts of management;*

*(b) School-based decision making;*

*(c) Kentucky school law;*

*(d) Kentucky school finance; and*

*(e) School curriculum and assessment.*

*(2) At the conclusion of the training, each participant shall complete a written comprehensive examination based on the content of the training.*

*(3) In addition to any applicable certification and experience requirements, to be qualified and eligible for initial or continued employment as a school superintendent, effective July 1, 1994, the school superintendent or applicant shall have successfully completed the assessment center process. A newly hired superintendent who is relocating from outside the state to begin his duties after June 30, 1994, shall successfully complete the assessment center process within one (1) year of assuming his duties as superintendent.*

***(4) The State Board for Elementary and Secondary Education shall adopt administrative regulations to govern the training content, number of hours, written examination, and criteria for successful completion of the training and assessment center process. The board shall also establish the continuing professional development requirements for school superintendents, to be effective July 1, 1994.***

Section 48. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf and the Kentucky School for the Blind ***and community education programs and services***. [~~The state board for vocational-technical, adult education and vocational rehabilitation services shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.~~]

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. ***The*** [~~Any such~~] lease may be for any initial term commencing with the date of ***the*** [~~such~~] lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which ***the*** [~~said~~] State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring ***the*** [~~such~~] television and related facilities, with appurtenances and [~~such~~] costs as may be incident to the issuance of ***the*** [~~such~~] bonds.

(b) Each [~~such~~] option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the ***chief state school officer*** [~~superintendent of public instruction~~], and delivered to the secretary of the Finance and Administration Cabinet as a member of ***the*** [~~said~~] commission; provided, however, that ***the*** [~~such~~] option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the ***chief state school officer*** [~~superintendent of public instruction~~] and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any [~~such~~] contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to such reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any [~~such~~] contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any [~~such~~] lease and to the cost of providing for the operation of such television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state ***board*** [~~boards~~] may, on the recommendation and with the advice of the ***chief state school officer*** [~~superintendent of public instruction~~], prescribe, print, publish and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as each deems necessary for the efficient management, control and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by ***the*** [~~each~~] board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~] or his designee, the state ***board*** [~~boards~~] shall[~~, within their respective jurisdictional areas,~~] establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the Department of Education.

[~~(6) Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the council on higher education for the issuance of associate, baccalaureate or graduate degrees. The state board for vocational-technical, adult education and vocational rehabilitation services and the state department of education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board. The state board for vocational-technical, adult education and vocational rehabilitation services, with approval of the council on higher education, may contract with institutions of public higher education for the operation of specific programs and projects.~~

~~(7) The department of education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the state board for vocational-technical, adult education and vocational rehabilitation services, contract with a local school system for such services.~~

~~(8) The state board for vocational-technical, adult education and vocational rehabilitation services shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.~~

~~(9) The state board for vocational-technical, adult education and vocational rehabilitation services, in conjunction with the council on higher education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(10) The state board for vocational-technical, adult education and vocational rehabilitation services shall have the authority and responsibility to review and to make recommendations to the council on higher education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.~~]

Section 49. KRS 156.032 is amended to read as follows:

(1) There is hereby established within the Department of Education a State Board for [~~vocational-technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~services~~] which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large.

(2) The Governor shall make appointments to the board and fill vacancies as they may occur. Appointments shall conform to KRS 156.040.

(3) The original appointments shall expire on June 30 in the year hereinafter designated and the terms of each member appointed thereafter shall begin on July 1 and be for four (4) years. The original appointments to the board shall be made in the following manner: three (3) shall expire on June 30, 1989; three (3) shall expire on June 30, 1990; and three (3) shall expire on June 30, 1991.

(4) The ***chief state school officer*** [~~superintendent of public instruction~~] or his designee shall be the executive officer of the board.

(5) The primary function of the board shall be to [~~develop and~~] adopt [~~policies and~~] administrative regulations by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating and evaluating the vocational-technical, adult and community education and vocational rehabilitation programs, services and activities within the Department of Education.

(6) The board shall have the management and control of state-operated vocational schools and vocational rehabilitation centers.

(7) The board shall have authority to establish administration and operating procedures for state-operated vocational schools, and regional staffs therefor, and for vocational rehabilitation centers, and field staffs therefor. However, all positions and employees shall continue to be subject to the provisions of KRS Chapter 18A.

(8) The board shall have the authority to enter into agreements with other agencies in order to carry out services under its jurisdiction.

(9) The board shall have authority to recommend to the State Board for Elementary and Secondary Education standards pertaining to secondary vocational education curriculum, [~~accreditation,~~] equipment, facilities, and related matters.

SECTION 50. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) The State Board for Adult, Vocational Education and Vocational Rehabilitation shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult education programs and services.***

***(2) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as each deems necessary for the efficient management, control and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.***

***(3) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the Department of Education.***

***(4) Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on Higher Education for the issuance of associate, baccalaureate or graduate degrees. The State Board for Adult, Vocational Education and Vocational Rehabilitation and the state Department of Education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board. The State Board for Adult, Vocational Education and Vocational Rehabilitation, with approval of the Council on Higher Education, may contract with institutions of public higher education for the operation of specific programs and projects.***

***(5) The Department of Education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the State Board for Adult, Vocational Education and Vocational Rehabilitation, contract with a local school system for such services.***

***(6) The State Board for Adult Vocational Education and Vocational Rehabilitation shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.***

***(7) The State Board for Adult, Vocational Education and Vocational Rehabilitation, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.***

***(8) The State Board for Adult, Vocational Education and Vocational Rehabilitation shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.***

Section 51. KRS 156.132 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction or the State Board for Elementary and Secondary Education~~] shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher or other public school officer ***as to whom he has reason to believe*** [~~who in his or their opinion~~] is guilty of immorality, misconduct in office, incompetency or willful neglect of duty.

(2) The ***chief state school officer*** [~~superintendent of public instruction~~] shall recommend by written charges the suspension by the State Board for Elementary and Secondary Education of any district board member or superintendent of schools ***as to whom he has reason to believe*** [~~who in his opinion~~] is guilty of immorality, misconduct in office, incompetency or willful neglect of duty. The State Board for Elementary and Secondary Education shall, after a summary hearing as provided by ***administrative*** regulations, suspend any district board of education member or superintendent of schools, who in the opinion of the majority of the State Board for Elementary and Secondary Education is guilty of immorality, misconduct in office, incompetence or willful neglect of duty. Such action by the State Board for Elementary and Secondary Education may be taken upon a recommendation of the ***chief state school officer*** [~~Superintendent of Public Instruction~~], or such action may be taken by a majority vote of the State Board for Elementary and Secondary Education without recommendation from the ***chief state school officer*** [~~Superintendent of Public Instruction~~].

(3) The State Board for Elementary and Secondary Education may suspend a district superintendent of schools under subsection (2) of this section only if after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the district board ***of*** [~~for elementary and secondary~~] education has refused to act, has acted in bad faith, arbitrarily or capriciously, or if a recommendation to the district board would have been futile.

***(4) Any officer suspended by the State Board for Elementary and Secondary Education under subsection (2) of this section shall be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the State Board for Elementary and Secondary Education to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of such charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the State Board for Elementary and Secondary Education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the State Board for Elementary and Secondary Education may remove the officer by a majority vote and such dismissal shall be final.***

***(5) Upon receipt of the officer's notice of intention to appear and answer the charges, the State Board for Elementary and Secondary Education shall issue subpoenas as shall be necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the accused officer. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The State Board for Elementary and Secondary Education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.***

***(6) Upon completion of both sides of the case, but within ninety (90) days from the date the officer was suspended, the State Board for Elementary and Secondary Education may by a majority vote remove the officer. If the board votes to remove the officer, the board shall prepare written findings specifying which charge or charges it found to be the basis for removal. If within ninety (90) days from the date of suspension, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of suspension.***

***(7) The officer shall have a right to appeal on the record to the Circuit Court located in the county of the school district. If the appeal is not made within thirty (30) days after removal, then the decision of the State Board for Elementary and Secondary Education shall be final. The appeal shall be an original action in court and shall be commenced by the filing of a petition against the State Board for Elementary and Secondary Education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in the appeal, the State Board for Elementary and Secondary Education shall forthwith transmit to the clerk of the court for filing a transcript of the original notice of charges and a transcript of all evidence considered at the hearing, where the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the State Board for Elementary and Secondary Education. Upon final hearing, the court shall grant or deny the relief asked for in the petition. Either the officer or the State Board for Elementary and Secondary Education may appeal the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. The payment shall be made from funds appropriated to the state Department of Education.***

Section 52. KRS 156.136 is amended to read as follows:

The State Board for Elementary and Secondary Education, upon suspension of any officer or district board of education member under [~~subsections (2) and (3) of~~] KRS 156.132, shall name a person to fill the vacancy caused by such suspension. Persons appointed by the State Board for Elementary and Secondary Education to fill vacancies under KRS 156.132 ***and*** [~~to~~] 156.136 shall hold office only during the time an officer is suspended, not to exceed ninety (90) days from the date of suspension. At the expiration of such period, vacancies shall be filled in the manner provided by law for the office. Persons appointed by the State Board for Elementary and Secondary Education to fill vacancies caused by suspension shall be paid from funds of the district board of education. Any person employed to fill the position of a superintendent who has been removed by the State Board for Elementary and Secondary Education under KRS 156.132 shall be employed by the district board of education for ***periods*** [~~a period~~] not to exceed one (1) year if the superintendent has appealed to the courts and if the courts have not taken final action.

Section 53. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. [~~Department of Education.~~

~~(a)~~] Superintendent of Public Instruction.

[~~(b) State Board for Elementary and Secondary Education.~~]

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) Department for the Blind.

(b) Department of Education.

***(1) State Board for Elementary and Secondary Education.***

***(2) Education Professional Standards Board.***

(c) Department for Libraries and Archives.

(d) Governor's Council on Vocational Education.

(e) Kentucky Industries for the Blind.

(f) Kentucky Educational Television.

(g) Kentucky Historical Society.

(h) Kentucky Teachers' Retirement System Board of Trustees.

[~~(i) Kentucky School Building Authority.~~]

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of General Counsel.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department of Business Development.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings, and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications and Council Affairs.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management Services.

(c) Office of Historic Properties.

(d) Department for Administration.

(e) Department of Facilities Management.

(f) Department of Information Systems.

(g) State Property and Buildings Commission.

(h) Kentucky Pollution Abatement Authority.

(i) Kentucky Savings Bond Authority.

(j) Deferred Compensation Systems.

(k) Office of Equal Employment Opportunity Contract Compliance.

(l) Capital Plaza Authority.

(m) County Officials Compensation Board.

(n) Financial Disclosure Review Commission.

(o) Kentucky Employees Retirement Systems.

(p) Commonwealth Credit Union.

(q) State Investment Commission.

(r) Kentucky Housing Corporation.

(s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.

(v) Historic Properties Advisory Commission.

9. Energy Cabinet:

(a) Department of Energy Production and Utilization.

(b) Department of Energy Research and Development.

(c) Office of Administration.

(d) Office of Energy Policy and Evaluation.

10. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

11. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

12. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Processing and Enforcement.

(c) Department of Professional and Support Services.

(d) Office of Revenue Estimating and Economic Analysis.

13. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 54. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to 161.120:

(1) "Standard college or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the Kentucky Department of Education.

(2) "Standard college or university work of graduate grade" means academic preparation ***which*** [~~that~~] extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a standard college or university accredited for the graduate level.

(3) "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

(4) "Teacher's aide" means an adult school employee who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his training and competency, certain instructional and noninstructional functions in the school program ***including*** [~~as are illustrated by~~], but not limited to, clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, and preparing and organizing instructional materials and equipment.

Section 55. KRS 161.011 is amended to read as follows:

***(1)*** "Classified employee" shall mean an employee of a ***local district*** [~~board of education~~] who is not required to have certification for his position as provided in KRS 161.020.

***(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.***

***(3) No person shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation.***

Section 56. KRS 161.020 is amended to read as follows:

(1) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in such position, unless he holds a certificate of legal qualifications for such position.

(2) No person shall enter upon the duties of a position requiring certification qualifications until his certificate has been filed or credentials registered with the ***local district*** [~~board of education~~] employing him.

(3) The validity and terms for the renewal of any certificate shall be determined by the laws and regulations in effect at the time the certificate was issued.

SECTION 57. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

***(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:***

***(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;***

***(b) Set standards for, approve and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;***

***(c) Issue, renew, suspend, and revoke teaching certificates;***

***(d) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 regular session of the General Assembly;***

***(e) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence; and***

***(f) Develop a professional code of ethics.***

***(2) (a) The board shall be composed of fifteen (15) members. The chief state school officer and the executive director of the Council on Higher Education shall serve as ex officio voting members. The Governor shall make the following thirteen (13) appointments:***

***1. Eight (8) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;***

***2. Two (2) members who shall be school administrators, one of whom shall be a school principal;***

***3. One (1) member representative of local boards of education; and***

***4. Two (2) members representative of deans of colleges of education.***

***(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.***

***(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.***

***(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.***

***(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.***

***(f) At the first meeting held after July 1 of each year, a chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.***

***(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences and publish information.***

***(3) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in Sections 57 through 69 of this Act. Rules, administrative regulations and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.***

Section 58. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the [~~state board for elementary and secondary~~] Education ***Professional Standards Board***. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, ***except as provided for by law***. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the [~~published~~] administrative regulations of the [~~state board for elementary and secondary~~] Education ***Professional Standards Board***.

(2) Certificates shall be issued to persons who have completed, at [~~such~~] colleges, [~~and~~] universities ***or local school district programs*** [~~as have been~~] approved by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** for the preparation of teachers and other school personnel, the curricula prescribed by the ***administrative regulations of the*** [~~Kentucky council on teacher education and certification and approved by the state board for elementary and secondary~~] Education ***Professional Standards Board*** [~~for the certificates~~].

(3) Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** and shall measure communication skills, general knowledge, professional education concepts and knowledge in the specific teaching field of the applicant. The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. ***If*** [~~In the event~~] the teacher fails the tests, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.*** Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers, and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. ***The intern shall only be assigned teaching duties for two-thirds (2/3) of the school day.*** The internship may be served in a public school or a nonpublic school which ***meets the state performance standards as established in KRS 156.160 or which*** has been accredited by [~~the state Department of Education or~~] a ***regional or*** national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by [~~state board for elementary and secondary~~] Education ***Professional Standards Board administrative*** regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. ***If*** [~~In the event that~~] more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations, the ***chief state school officer*** [~~superintendent of public instruction~~] may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. ***If*** [~~In the event~~] the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. In the case of a nonpublic school, if the teacher training institution is unable to provide a member to serve on the beginning teacher committee, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator. The resource teacher shall be appointed by the Department of Education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the Department of Education. Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:

(a) Teachers in the same school;

(b) Teachers in the same district; and

(c) Teachers in an adjacent school district.

The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the ***chief state school officer*** [~~superintendent of public instruction~~] shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the

examinations as prescribed by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.***

(9) ***If*** [~~In the event~~] an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.*** The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must re-establish eligibility by repeating and passing the testing program in effect for new teachers at that time.

(10) The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, ***and shall also approve the curricula of any local district alternative certification program,*** when the curricula comply with the administrative regulations of the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board,*** and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

SECTION 59. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby established an alternative certification program. The Educational Professional Standards Board shall adopt administrative regulations establishing standards for local district training programs and the approval and evaluation process for these programs. A local district or group of districts may seek approval for a training program. The state approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification. The training program may be offered in all instructional fields for middle and secondary classroom teachers, except teachers of exceptional children. To participate in a state approved local district alternative training program, the candidate shall:***

***(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale.***

***(b) Pass written tests designated by the Education Professional Standards Board for:***

***1. General knowledge;***

***2. Communication skills; and***

***3. Knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.***

***(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.***

***(2) Upon meeting the participation requirements as established in subsection (1) of this section, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to Section 58 of this Act.***

***(3) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.***

***(4) By July, 1991, the Education Professional Standards Board shall adopt administrative regulations creating a local district alternative training program for primary grade teachers.***

SECTION 60. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section, "professional support team" means a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chairman of the team.***

***(2) The Education Professional Standards Board shall establish a training program for professional support teams which shall be implemented by the Department of Education. The training shall include content and procedures for the evaluation of teacher candidates. Completion of the training shall be evidenced by successfully passing the examinations prescribed by the board.***

***(3) A local school district seeking to hire a teacher pursuant to Section 59 of this Act shall submit a plan for an alternative training program to the Department of Education and have it approved in accordance with administrative regulations established by the Education Professional Standards Board. The district shall show evidence that it has sought joint sponsorship of the program with a college or university. No local school district shall employ a teacher seeking certification in a state approved local district training program unless it has submitted a plan and received approval by the Education Professional Standards Board.***

***(4) Each state approved local district alternative training program shall provide the teacher candidate with essential knowledge and skills and include, but not be limited to, the following components:***

***(a) A full-time seminar and practicum of no less than eight (8) weeks' duration prior to the time the candidate assumes responsibility for a classroom. The content of the formal instruction shall be prescribed by the Education Professional Standards Board and shall include an introduction to basic teaching skills through supervised teaching experiences with students, as well as an orientation on the policies, organization, and curriculum of the employing district.***

***(b) A period of classroom supervision while the candidate assumes responsibility on a one-half (1/2) time basis for a classroom and continuing for eighteen (18) weeks. During this period, the candidate shall be visited and critiqued no less than one (1) time per week by one (1) or more members of a professional support team appointed by the local district and assigned according to the administrative regulations adopted by the Education Professional Standards Board. The candidate shall be formally evaluated at the end of five (5) weeks, at the end of the second five (5) weeks, and at the end of the last eight (8) weeks by the members of the team. During this period, the candidate shall continue formal instruction which emphasizes student assessment, child development, learning, curriculum, instruction of exceptional children, and school and classroom organization.***

***(c) An additional period of at least eighteen (18) weeks continued supervision of the teacher candidate who may be assigned full-time classroom duties. During this period the teacher candidate shall be critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two (2) months shall pass without a formal observation. Formal instruction shall also continue during this period. In addition, opportunities shall be provided for the teacher candidate to observe the teaching of experienced teachers.***

***(5) At least two hundred (200) hours of formal instruction shall be provided in all three (3) phases of the program combined.***

***(6) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the teacher candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate shall be issued a one (1) year certificate of eligibility to complete the internship pursuant to Section 58 of this Act. The support team shall make one (1) of the following recommendations:***

***1. Approved: recommends issuance of certificate to complete the internship;***

***2. Insufficient: recommends the candidate be allowed to seek re-entry into a teacher preparation program; or***

***3. Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.***

Section 61. KRS 161.027 is amended to read as follows:

(1) The [~~state board for elementary and secondary~~] Education ***Professional Standards Board***, pursuant to ***Section 57 of this Act*** [~~KRS 161.025(4)~~], shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** and the Council on Higher Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** shall develop or select appropriate tests for applicants seeking certification as principals, including:

(a) A generic test to assure an acceptable level of communication skills, general knowledge and professional education concepts related to, but not limited to, instructional leadership, management and supervisory skills; and

(b) A specialized examination on the current instructional and administrative practices in Kentucky public education.

(4) The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** shall establish the minimum score for successful completion of examinations and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the tests. The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** shall provide for confidentiality of examination scores.

(5) The ***Education Professional Standards Board*** [~~council on teacher education and certification~~] shall develop [~~and recommend to the superintendent of public instruction and the state board for elementary and secondary education~~] an internship program which shall provide for the supervision, assistance and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The [~~state board for elementary and secondary~~] Education ***Professional Standards Board***, by administrative regulation, shall establish the internship program.

(6) [~~Effective January 1, 1988,~~] The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section.

(7) [~~Effective July 1, 1988, and~~] Upon successful completion of the approved preparation program and the examinations, the ***chief state school officer*** [~~superintendent of public instruction~~] shall issue to the applicant a statement of eligibility for internship valid for four (4) years. If the applicant does not participate in an internship program within the four (4) year period, the applicant ***shall*** [~~must~~] re-establish eligibility by repeating and passing the examinations in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) [~~Effective July 1, 1988,~~] All applicants for principal certification, after successfully completing the examinations, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board***, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.***

Section 62. KRS 161.046 is amended to read as follows:

(1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a subject area where there is a critical teacher shortage on a statewide or local district basis and who has met the requirements for certification as an adjunct instructor established by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.***

(2) ***The Education Professional Standards Board*** [~~By September 1, 1984 the state board for elementary and secondary education~~] shall ***adopt administrative*** [~~establish~~] regulations governing the qualifications and utilization of adjunct instructors. These ***administrative*** regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate and shall establish and require competency tests if deemed necessary.

(3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714. The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.

(4) Local school boards may contract with [~~such~~] certificated adjunct instructors for part-time services on an hourly, daily or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position for which a qualified teacher with a regular certificate is available at the time of the signing of the contract. An orientation program shall be developed and implemented for adjunct instructors by the local school board.

Section 63. KRS 161.100 is amended to read as follows:

When a district board of education satisfies the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** may[~~, on approval of the superintendent of public instruction,~~] issue emergency certificates to persons who meet the qualifications determined by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** for emergency certificates. An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the state Department of Education under the direction of the ***chief state school officer*** [~~superintendent of public instruction~~], in accordance with ***administrative*** [~~rules and~~] regulations approved by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.***

Section 64. KRS 161.115 is amended to read as follows:

The holder of any type of Kentucky teacher certification issued by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** may [~~voluntarily~~], at the holder's option, have any certificate, certificate endorsement or subject specialization deleted from the official certification record upon application, subject to the following provisions:

(1) The application shall be submitted to the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** on a form furnished by the board. The form shall include the information required by this section and the applicant shall verify the information by affidavit. The application ***shall*** [~~must~~] be submitted between September 1 and December 1 and shall become effective on the following July 1. If the requirements of this section are satisfied, the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** shall notify the applicant and the applicant's employing school or school district on or before February 1 following submission of the application, that the decertification has been approved.

(2) No portion of the certification shall be deleted for any subject or assignment in which the teacher has had experience during the three (3) year period preceding the request in an amount equivalent to one (1) year of full-time employment (140 days) during which at least one (1) period per day was in the subject or assignment corresponding to the portion of the certification requested for deletion.

(3) If the certification for classroom teaching at the secondary level is to be retained, at least one (1) teaching major or one (1) area of concentration ***shall*** [~~must~~] be retained.

(4) A certificate which is a prerequisite or a concurrent requirement to the issuance of another certificate or certificate endorsement held by the applicant ***shall*** [~~must~~] be retained.

(5) Applications for restoration of areas of certification deleted under this section shall be submitted to the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** showing restored competency and proficiency by completion of twelve (12) semester hours of credit pertinent to the deleted areas as prescribed by an institution approved for teacher education. A transcript or other appropriate verification of completion of the twelve (12) semester hours of credit from the institution approved for teacher education shall be accepted as evidence showing restoration of competency and proficiency in the areas of certification.

Section 65. KRS 161.120 is amended to read as follows:

***(1)*** Any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, supervisors, directors of pupil personnel or other administrative, supervisory or instructional employees may be revoked by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board*** [~~on the written recommendation of the superintendent of public instruction,~~] for immorality, misconduct in office, incompetency***, violation of the school laws of the state or administrative regulations adopted by the State Board for Elementary and Secondary Education,*** [~~or~~] willful neglect of duty, or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification. [~~Before the certificate is revoked the defendant shall be given a copy of the charges against him and an opportunity, upon not less than ten (10) days' notice, to be heard in person or by counsel.~~]

***(2) (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, Social Security number, position name, and position code of any certified school employee in his district whose contract is terminated or not renewed, for cause; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who is otherwise known to have engaged in such actions or conduct as might reasonably be expected to warrant consideration for certificate revocation. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.***

*(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, which are based on immorality, misconduct in office, incompetency, violation of school law or administrative regulation adopted by the State Board for Elementary and Secondary Education, willful neglect of duty, or falsification of certification credentials, and shall forward copies of all relevant documents and records in his possession.*

*(3) (a) Upon taking action to initiate proceedings to revoke a certificate, the Education Professional Standards Board shall provide the certified employee a written statement specifying in detail the charge against him and setting a time and date for a hearing. The hearing shall take place no less than twenty (20) days nor more than forty-five (45) days after the certified employee receives the statement of charges.*

*(b) The hearing may be public or private at the discretion of the certified employee. The certified employee may be represented by counsel. The presence of witnesses may be required upon subpoenas issued by the chief state school officer at the request of the chairman of the Educational Professional Standards Board or the certified employee. Each witness shall be required to take an oath or affirmation prior to testimony.*

*(c) Upon hearing the evidence, the Education Professional Standards Board may by a majority vote render its decision or may defer its action for no more than five (5) days.*

*(4) In all cases where the Education Professional Standards Board is unable, after reasonable diligence, to notify a certified individual of a scheduled hearing on pending charges, the hearing shall be continued generally until the individual can be notified or presents himself for hearing. The charges shall not be dropped in the interim, and the fact of pending revocation charges shall be appropriately noted in the individual's certification file.*

*(5) Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation.*

Section 66. KRS 161.124 is amended to read as follows:

The interstate agreement on qualification of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

## ARTICLE I. PURPOSE, FINDINGS, AND POLICY

(1) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of ***these*** [~~such~~] persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of ***these*** [~~such~~] programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage ***these*** [~~such~~] personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

## ARTICLE II. DEFINITIONS

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(1) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

(3) "Accept," or any variant thereof, means to recognize and give effect to one (1) or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(5) "Originating state" means a state [~~(~~]and ***its*** [~~the~~] subdivisions [~~thereof~~], if any,[~~)~~] whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

(6) "Receiving state" means a state [~~(~~]and ***its*** [~~the~~] subdivisions [~~thereof)~~] which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

## ARTICLE III. INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS

(1) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any [~~such~~] contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(2) Any [~~such~~] contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) [~~Such~~] Waivers, substitutions, and conditional acceptance as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

(3) No contract made pursuant to this agreement shall be for a term longer than five years but any [~~such~~] contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

## ARTICLE IV. APPROVED AND ACCEPTED PROGRAMS

(1) Nothing in this agreement should be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

## ARTICLE V. INTERSTATE COOPERATION

The party states agree that:

(1) They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

### ARTICLE VI. AGREEMENT EVALUATION

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendation for changes.

### ARTICLE VII. OTHER ARRANGEMENTS

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

### ARTICLE VIII. EFFECT AND WITHDRAWAL

(1) This agreement shall become effective when enacted into law by two (2) states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(2) Any party state may withdraw from this agreement by enacting a statute repealing the ***agreement*** [~~same~~], but no [~~such~~] withdrawal shall take effect until one (1) year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

### ARTICLE IX. CONSTRUCTION AND SEVERABILITY

This agreement shall be liberally construed so as to effectuate ***its*** [~~the~~] purposes [~~thereof~~]. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

Section 67. KRS 161.126 is amended to read as follows:

(1) The "designated state official" for this state shall be the ***chief state school officer*** [~~superintendent of public instruction~~]. The ***chief state school officer*** [~~superintendent of public instruction~~] shall enter into contracts pursuant to article III of the agreement only with the approval of the specific text [~~thereof~~] by the [~~state board for elementary and secondary~~] Education ***Professional Standards Board.***

(2) True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the office of the ***chief state school officer*** [~~superintendent of public instruction~~] and in the office of the Secretary of State. The ***chief state school officer*** [~~superintendent of public instruction~~] shall publish all [~~such~~] contracts in convenient form.

Section 68. KRS 161.042 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall provide through ***administrative*** regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the state Board for Elementary and Secondary Education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he is assigned.

(4) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

Section 69. KRS 161.044 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall establish ***administrative*** regulations governing the qualifications [~~and the utilization~~] of teachers' aides and adult volunteer personnel in the common schools. All teachers' aides working in kindergarten classes and all instructional teachers' aides initially employed after July 1, 1986, except those with current teacher certification, shall be subject to the following requirements:

(a) A high school diploma or a high school equivalency certificate;

(b) A passing score on an achievement test. The content of the test and the minimum score shall be determined by the State Board for Elementary and Secondary Education;

(c) Successful completion of an in-service training program established by the State Board for Elementary and Secondary Education; and

(d) An annual evaluation by the appropriate school administrator with input from the supervising teacher or teachers.

(2) "Noninstructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing noninstructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities, aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a noninstructional period. Noninstructional teachers' aides employed on a full-time basis shall possess skills necessary to perform the duties outlined in this subsection as demonstrated by achieving a minimum score on a measurement instrument developed by the State Board for Elementary and Secondary Education.

(3) Within the ***administrative*** regulations established by the State Board for Elementary and Secondary Education, ***a*** local ***district*** [~~boards of education~~] may employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment as authorized under the ***administrative*** regulations, and as directed by the professional administrative and teaching staff, ***these*** [~~such~~] personnel shall have the same legal status and protection as a certified teacher in the performance of the same or similar duties.

(4) Local ***districts*** [~~boards of education~~] shall give preference to applicants for the position of teacher's aide who have regular or emergency teacher certification.

(5) Within the provisions established by the State Board for Elementary and Secondary Education, local ***districts*** [~~boards of education~~] may utilize adult volunteer personnel in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.

(6) Pursuant to KRS 156.095 all teachers who have teachers' aides under their direct supervision shall receive in-service training as specified by the State Board for Elementary and Secondary Education on the effective utilization and evaluation of teachers' aides.

Section 70. KRS 160.210 is amended to read as follows:

(1) ***(a)*** In independent school districts, the members of the school board shall be elected from the district at large. In county school districts ***located in counties with a population under two hundred thousand (200,000),*** members shall ***represent*** [~~be elected from~~] divisions ***and be elected by the district at large. In county school districts located in counties with a population of two hundred thousand (200,000) and above, members shall be elected from divisions.***

***(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315 and 118.316, the chief state school officer shall fill the new term of office by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.***

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be ***to*** [~~such as will~~] make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines ***less*** [~~more frequently~~] than five (5) years after the last change in any division lines, except in case of merger of districts or a change in territory due to annexation.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the State Board for Elementary and Secondary Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the ***chief state school officer*** [~~superintendent of public instruction~~] shall cause an investigation to determine the validity of the petition, ***the*** [~~said~~] investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall order the local board of education to make [~~such~~] changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the State Board for Elementary and Secondary Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the State Board for Elementary and Secondary Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 not withstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute ***shall*** [~~must~~] be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the ***chief state school officer*** [~~superintendent of public instruction~~] within ten (10) days following its publication.

Section 71. KRS 160.260 is amended to read as follows:

(1) [~~The voting in county districts shall be by divisions.~~] Each voter shall vote for only one (1) candidate ***in a division***. The legally eligible candidate receiving the highest number of votes cast in his division shall be declared elected.

(2) In independent school districts each voter may vote for as many candidates as there are members to be elected, and the number of board members to be elected shall be indicated. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

Section 72. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled by the ***chief state school officer*** [~~other members of the board~~] within ninety (90) days after the vacancy occurs. [~~If the vacancy is not filled by the other members of the board within ninety (90) days, it shall be filled by the state board for elementary and secondary education within thirty (30) days after information has been filed by any citizen of the district that the vacancy has existed for more than ninety (90) days.~~] The member so chosen shall meet the eligibility requirements as established by KRS 160.180 and shall hold office until his successor is elected and has qualified. ***The local board of education may make nominations and any person may nominate himself or another for the office.***

(2) Any vacancy having an unexpired term of one (1) year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the ***chief state school officer*** [~~board of education or the state board for elementary and secondary education~~] to fill the vacancy.

Section 73. KRS 160.180 is amended to read as follows:

(1) ***As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.***

***(2)*** No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the [~~eighth grade in the common schools as shown by the records of the school in which the eighth-grade was completed or by affidavits of the teacher or teachers under whom the work was completed, or unless he has the equivalent of an eighth-grade education as determined by an examination held under rules and regulations adopted by the State Board for Elementary and Secondary Education. Only those board members serving July 1, 1984 and who continue to serve without a break in service shall be eligible with an eighth-grade education. All other members elected after July 1, 1984 shall have completed at least the~~] twelfth grade or ***has been issued a GED certificate and he is elected after the effective date of this Act*** [~~unless they have completed the equivalent of a twelfth-grade education as determined by an examination held under rules and regulations adopted by the State Board for Elementary and Secondary Education~~]; or

(d) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or

(e) Who holds or discharges the duties of any civil or political office, deputyship or agency under the city or county of his residence; or

(f) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery or any other property, materials, supplies, equipment or services for which school funds are expended; or

(g) Who has been removed from membership on a board of education for cause***; or***

***(h) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after the effective date of this Act.***

***(3)***[~~(2)~~] If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (f) of subsection ***(2)***[~~(1)~~] of this section, or becomes a candidate for nomination or election to any office or agency the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he moves his residence from the district for which he was chosen, ***or if he attempts to influence the hiring of any school employee, except the superintendent of schools,*** or if he does anything that would render him ineligible for re-election, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

***(4)***[~~(3)~~] A board member shall be eligible for re-election unless he becomes disqualified.

[~~(4) No member of a board of education shall cast a vote regarding the appointment or employment in any capacity of any person related to him as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law or first cousin, except when the majority vote of the remainder of the board is in the affirmative regarding the appointment or employment of such person.~~]

(5) [~~All local school board members shall complete at least fifteen (15) hours of in-service training through December 31, 1986.~~

~~(6) Effective January 1, 1987, and thereafter,~~] The annual in-service ***training*** requirements for all school board members shall be as follows:

(a) Twelve (12) ***hours*** [~~hours' training~~] for school board members with zero to three (3) years of experience;

(b) Eight (8) ***hours*** [~~hours' training~~] for school board members with four (4) to seven (7) years of experience; and

(c) Four (4) ***hours*** [~~hours' training~~] for school board members with eight (8) or more years of experience.

The State Board for Elementary and Secondary Education shall identify the criteria for fulfilling this requirement.

Section 74. KRS 160.170 is amended to read as follows:

Every person elected to a board of education shall, before assuming the duties of his office, take the following oath, in addition to the constitutional oath:

"State of Kentucky,

County of ____________

____________, being duly sworn, says that he is eligible under the law to serve as a member of the board of education, and that he will not, while serving as a member of such board, become interested, directly or indirectly, in any contract with or claim against the board, and that he will not ***in any way influence*** [~~be influenced during his term of office by any consideration except that of merit or fitness in~~] the ***hiring or*** appointment of ***district*** [~~officers or engagement of~~] employees***, except the hiring of the superintendent of schools.***

____________

Subscribed and sworn to before me this ____ day of ____________, ________"

The oath shall be kept on record by the board.

Section 75. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) No candidate, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of one hundred dollars ($100), and all such contributions in excess of one hundred dollars ($100) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, or committee or anyone acting for the candidate, shall accept a contribution of more than four thousand dollars ($4,000) from any person, permanent committee, or contributing organization in any one (1) election***; except that no candidate for school board, or committee or anyone acting for the candidate shall accept a contribution of more than one hundred dollars ($100) from any person or more than two***

***hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election.*** No person, permanent committee or contributing organization shall contribute more than four thousand dollars ($4,000) to any one (1) candidate, or anyone acting for the candidate, in any one (1) election***; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, or anyone acting for the candidate, in any one (1) election.***

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than four thousand dollars ($4,000) to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than six thousand dollars ($6,000) to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year.

(11) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(12) No candidate for the office of governor shall make a personal loan to his committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000).

(13) No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.

(14) No candidate for any state, county, city or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No candidate for governor or the immediate family thereof may loan any money, service or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate, except to the extent of a total of fifty thousand dollars ($50,000).

Section 76. KRS 160.290 is amended to read as follows:

(1) Each board of education shall have general control and management of the public schools in its district and may establish [~~such~~] schools and provide for [~~such~~] courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the ***administrative*** [~~rules and~~] regulations of the State Board for Elementary and Secondary Education. Each board shall have control and management of all school funds and all public school property of its district and may use ***its*** [~~such~~] funds and property to promote public education [~~in such ways as it deems necessary and proper~~]. Each board shall exercise generally all powers ***prescribed by law*** in the administration of its public school system, appoint ***the superintendent of schools*** [~~such officers, agents and employees as it deems necessary and proper, prescribe their duties,~~] and fix ***the*** [~~their~~] compensation ***of employees*** [~~and terms of office~~].

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations and bylaws for its meetings and proceedings for the [~~government, regulation and~~] management of the [~~public~~] schools and school property of the district, for the transaction of its business, and for the qualification and ***duties*** [~~employment~~] of ***employees*** [~~teachers~~] and the conduct of pupils. The rules, regulations, and bylaws [~~heretofore~~] made by [~~any governing body of a school district, or hereafter made by~~] a board of education[~~,~~] shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of a majority of the members of the board. The rules, regulations and bylaws shall be spread on the minutes of the board and be open to the public.

Section 77. KRS 160.350 is amended to read as follows:

(1) ***After considering the recommendations of a screening committee, as provided in Section 78 of this Act,*** each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(2) Before any superintendent assumes his duties, he shall present to the board of education that ***appointed*** [~~elected~~] him a statement signed by the ***chief state school officer*** [~~superintendent of public instruction~~] that ***the superintendent*** [~~he~~] has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been ***appointed*** [~~elected~~], and he shall hold such certificate throughout the period of his employment. ***After July 1, 1994, the statement signed by the chief state school officer shall also indicate that the superintendent candidate has successfully completed the superintendents training program and assessment center process established in Section 47 of this Act. However, a superintendent candidate who is relocating from outside the state to begin his duties, after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent.*** A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit.

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education ***and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a Kentucky distinguished educator pursuant to Section 5 of this Act and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract.*** Written notice setting out the charges for removal shall be spread on the minutes of the board and given ***to*** the superintendent [~~fifteen (15) days before action is taken on his removal~~]. ***The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification he shall either approve or reject the board's request.***

SECTION 78. A NEW SECTION OF KRS 160.350 TO 160.360 IS CREATED TO READ AS FOLLOWS:

***(1) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent.***

***(2) A screening committee shall be composed of:***

***(a) Two (2) teachers, elected by the teachers in the district;***

***(b) One (1) board of education member, appointed by the board chairman;***

***(c) One (1) principal, elected by the principals in the district; and***

***(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district.***

***(3) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations.***

Section 79. KRS 160.380 is amended to read as follows:

(1) ***As used in KRS 160.380:***

***(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law and daughter-in-law.***

***(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district or a new position created in a local school district for which certification is required.***

***(2) (a)*** All appointments, promotions and transfers of principals, supervisors, teachers and other public school employees shall be made only ***by the*** [~~upon the recommendation of the~~] superintendent of schools, ***who shall notify the board of the action taken*** [~~, subject to the approval of the board. If the board of education cannot agree with the superintendent as to any legally qualified person recommended by the superintendent, the board of education may appeal to the State Board for Elementary and Secondary Education to review the case and the decision of the State Board for Elementary and Secondary Education shall be final~~]. All employees of the ***local district*** [~~board~~] shall have ***the*** [~~such~~] qualifications [~~as are~~] prescribed by law and by the administrative regulations of the State Board for Elementary and Secondary Education and of the employing board. Supervisors, principals, teachers and other employees may be appointed by the ***superintendent*** [~~board of education~~] for any school year at any time after February 1 [~~next~~] preceding the beginning of the school year.

***(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.***

***(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.***

***(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position.***

***(e) Effective July 1, 1991, no relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district prior to the effective date of this Act and who is certified for the position he holds, as long as the superintendent is holding office on July 1, 1991, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in the district on the effective date of this Act.***

***(f) No superintendent shall employ a relative of a school board member of the district.***

***(g) No principal's relative shall be employed in the principal's school, except a relative employed in the principal's school prior to the effective date of this Act.***

***(3)***[~~(2)~~] No ***superintendent*** [~~board of education~~] shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The ***superintendent*** [~~board~~] may employ, at ***his*** [~~its~~] discretion, persons convicted of sex crimes classified as a misdemeanor. Each ***superintendent*** [~~board~~] shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

***(4)***[~~(3)~~] (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a ***superintendent*** [~~board~~] may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

***(5)***[~~(4)~~] Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

***(6)***[~~(5)~~] Any request for records under subsection ***(3)*** [~~(2)~~] of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

***(7)***[~~(6)~~] The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.

Section 80. KRS 161.164 is amended to read as follows:

***(1) No employee of the local school district shall take part in the management or activities of any political campaign for school board.***

***(2) No employee of the local school district shall, directly or indirectly, pay or promise to pay an assessment to a school board candidate for political purposes, or solicit or take part in soliciting any political assessment, subscription, contribution, or service. No candidate for school board shall solicit or accept any political assessment, subscription, contribution, or service of any employee of the school district.***

***(3)*** No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position as teacher or employee of any district board of education, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

***(4) No teacher or employee of any district board of education shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or ethnic origin or race or color or sex or age or handicapping condition.***

***(5) The local superintendent shall inform all school employees of the provisions of this section.***

Section 81. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS ***161.730*** [~~161.721~~] to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS ***161.730*** [~~161.721~~] to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college ***or completion of a local district alternative certification training program.***

[~~(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.~~

~~(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, or school business administrator, or who holds a position in which he evaluates or supervises board employees or recommends personnel for employment or discharge. The term "administrator" shall also include those assistant, associate or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.~~

~~(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.~~]

Section 82. KRS 161.730 is amended to read as follows:

Each ***local district*** [~~board of education~~] shall enter into written contracts, either limited or continuing, for the employment of all teachers.

Section 83. KRS 161.740 is amended to read as follows:

(1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:

(a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the [~~State Board for Elementary and Secondary~~] Education ***Professional Standards Board.***

(b) When a currently employed teacher is ***re-employed by the superintendent*** [~~recommended for re-employment~~] after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall ***issue*** [~~recommend said teacher for a continuing contract, and, if the teacher is employed by the board of education,~~] a written continuing contract ***if the teacher assumes his duties, and the superintendent shall notify the board of the action taken*** [~~shall be issued~~]. Each day served in the General Assembly by a board of education employee during a regular, extraordinary, or organizational session shall be included in the computation of a year as defined in KRS 161.720(2).

(c) When a teacher has attained continuing contract status in one (1) district and becomes employed in another district, ***the*** [~~said~~] teacher shall retain that status. [~~provided,~~] However, [~~that~~] a district may require a one-year probationary period of service in that district before granting that status. For purposes of this subsection, the continuing contract of a teacher shall not be [~~deemed to have~~] terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract ***shall*** [~~will~~] be transferred to the next school district, under conditions [~~herein~~] set forth ***in this section***, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to re-employment in the first school district during the seven (7) month period following termination.

(d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the [~~State Board for Elementary and Secondary~~] Education ***Professional Standards Board*** have been met.

(2) Vocational education teachers fulfilling the requirements in subsection (1) of this section as of July 15, 1982 shall be [~~deemed~~] eligible for continuing service status.

(3) Any teacher or superintendent who has been or may be hereafter inducted into the armed forces of this country, shall at the expiration of [~~such~~] service be re-employed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.

Section 84. KRS 161.750 is amended to read as follows:

(1) Any teacher employed under a limited contract ***may*** [~~shall at the expiration of such limited contract~~] be [~~deemed~~] re-employed under the provisions of KRS 161.720 to 161.810 for the succeeding school year at the same salary plus any increment or decrease as provided by the salary schedule, ***upon notification of the board by*** [~~unless~~] the superintendent of schools [~~has recommended to the board of education~~] that the contract of the teacher ***is*** [~~not be~~] renewed [~~and unless the board has voted to approve said recommendation~~].

(2) If the ***superintendent does not renew the contract he shall*** [~~board of education approves the superintendent's recommendation, as provided in subsection (1) of this section, the board must~~] present written notice to the teacher that the contract will not be renewed no later than April 30 of the school year during which the contract is in effect. Upon receipt of a request by the teacher, the ***superintendent*** [~~board~~] shall provide a written statement containing the specific, detailed and complete statement of grounds upon which the nonrenewal of contract is based.

(3) ***The*** [~~Upon failure of the employing board of education to act favorably on the recommendation of the superintendent not to renew a contract as required by subsection (1) of this section, to give written notice of said nonrenewal as required by subsection (2) of this section or to provide the written statement of grounds required by subsection (2) of this section the teacher shall receive a contract of employment for the next school year; and, if the teacher has served the number of years as required by KRS 161.740(1)(b) or (c),~~

~~said contract of employment shall be a continuing contract. Such~~] teacher shall be presumed to have accepted [~~such~~] employment, unless he ***notifies the superintendent of schools*** [~~shall notify the board of education~~] in writing to the contrary on or before the fifteenth day of June, and a written contract for the succeeding year shall be executed accordingly.

Section 85. KRS 161.760 is amended to read as follows:

(1) ***The superintendent of schools*** [~~Each board of education~~] shall ***give*** [~~cause~~] notice [~~to be given annually~~] not later than July 1 ***each year*** to each teacher who holds a contract valid for the succeeding school year, stating the best estimate as to the salary to be paid ***the*** [~~such~~] teacher during ***the*** [~~such~~] year. ***The*** [~~Such~~] salary shall not be lower than the salary paid during the preceding school year unless ***the*** [~~such~~] reduction ***is*** [~~be~~] a part of a uniform plan affecting all teachers in the entire district, or unless there is a reduction of responsibilities. Nothing herein shall prevent increases of salary after the ***superintendent's*** [~~board's~~] annual notice has been given. All teachers who refuse assignment shall notify the superintendent in writing not later than July 15.

(2) Transfer or change in appointment of teachers after July 15 shall be made only to fill vacancies created by illness, death or resignations; to reduce or increase personnel because of a shift in school population; to make personnel adjustments after consolidation or merger; or to assign personnel according to their certification pursuant to KRS 161.010 to 161.120 [~~and regulations adopted thereunder,~~] provided, in the latter instance, that the teacher was appointed to a position outside his or her field of certification in the previous year.

(3) [~~Upon recommendation of the superintendent and approval of the board of education~~] Reduction of responsibility for a teacher may be accompanied by a corresponding reduction in salary provided that written notification ***stating*** [~~setting forth~~] the specific reason [~~or reasons~~] for ***the*** reduction [~~in responsibility~~] shall be furnished to the teacher not later than May 15.

(4) Employment of a teacher, under either a limited or a continuing contract, is employment in the school district only and not in a particular position or school.

Section 86. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to ***violation of the school laws of the state or administrative regulations adopted by the State Board for Elementary and Secondary Education or*** [~~1. violations of~~] lawful rules and regulations established by the local board of education for the operation of schools, ***or*** [~~and 2.~~] refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) ***No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the chief state school officer and the superintendent of his intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.***

***(3) Upon receiving the teacher's notice of his intention to answer the charge, the chief state school officer shall appoint a three (3) member tribunal, consisting of one (1) teacher, one (1) administrator, and one (1) lay person, none of whom reside in the district, to conduct an impartial hearing within the district. The chief state school officer shall name the chairman and set the date and time for the hearing. The hearing shall take place no less than twenty (20) days nor more than thirty (30) days after the teacher receives the statement of charges.***

***(4) The hearing may be public or private at the discretion of the teacher. Both parties may be represented by counsel and may require the presence of witnesses upon subpoenas issued by the chief state school officer. Each witness shall be required to take an oath or affirmation prior to testimony. The local board of education shall provide for a tape and stenographic report of the proceedings and furnish the teacher with a copy. The local board shall pay each member of the tribunal a per diem of one hundred dollars ($100) and travel expenses.***

***(5) Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days.***

***(6) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If after the hearing the decision of the tribunal is against termination of the contract, the suspended teacher shall be paid his full salary for any period of suspension.***

***(7) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located. The appeal shall be commenced by filing a petition against the local board of education and the superintendent. The petition shall state the grounds upon which the teacher relies for a reversal or modification of the order of termination of contract. Upon service or waiver of summons in the appeal, the tribunal, with the assistance of the chief state school officer, shall transmit to the clerk of the court for filing a transcript of the original notice of charges and a transcript of all evidence considered at the hearing before the tribunal. The local board of education shall be responsible for the costs of the transcript. The court shall hear the appeal upon the record as certified by the tribunal and shall dispose of the appeal in summary manner. Either the teacher or the superintendent and local board of education may appeal the action of the court to the Court of Appeals. If the appeal is not made within thirty (30) days following the final decision of the tribunal, the decision shall be final.***

***(8)*** [~~(a) Charges on the above causes shall be supported by written records of teacher performance by the superintendent, principal, or other supervisory personnel of the board.~~

~~(b) Marriage of a teacher shall not be cause for termination of the contract.~~

~~(3) No contract shall be terminated except upon recommendation of the superintendent and unless the teacher is furnished with a written statement, specifying in detail the charge or charges against said teacher, signed by the chairman and secretary of the board of education and naming a date and place at which the teacher may appear before the board of education and answer said charge or charges. Said date for the hearing shall not be less than twenty (20) nor more than thirty (30) days after the service of such charges upon the teacher. The teacher shall within ten (10) days after the receipt of the written statement of such charges notify the board of education of his intention to appear and answer such charges, and upon failure of the teacher to give such notice, the board of education may dismiss the teacher by a majority vote and such dismissal shall be final.~~

~~(4) Upon receipt of the teacher's notice of intention to appear and answer such charges, the board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issue shall be heard at the time and place set and the hearing shall be public or private at the discretion of the teacher. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath or affirmation before an officer of the board of education. The board of education shall provide for a stenographic report of the proceedings and furnish the teacher with a copy. Upon completion of both sides of the case the board of education may by a majority vote dismiss the teacher or may defer its action for not more than five (5) days.~~

~~(5) The board of education may, on recommendation of the superintendent, suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrants such action. If after the hearing the decision of the board is against termination of the contract, the suspended teacher shall be paid his full salary for the period of such suspension.~~

~~(6) The teacher shall have a right to make an appeal both as to law and as to fact to the circuit court. If said appeal is not made within thirty (30) days after dismissal, then the decision of the board of education shall be final. Such appeal shall be an original action in said court and shall be commenced by the filing of a petition against such board of education, in which petition the facts shall be alleged upon which the teacher relies for a reversal or modification of the order of termination of contract. Upon service or waiver of summons in said appeal, such board of education shall forthwith transmit to the clerk of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing before such board, whereupon the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition as may be proper under the provisions of KRS 161.720 to 161.810 and in accordance with the evidence adduced at the hearing. Either the teacher or the board of education may appeal from the action of the court to the Court of Appeals.~~

~~(7)~~] As an alternative to termination of a teacher's contract, the ***superintendent upon notifying the board and providing written notification to the teacher of the charge*** [~~board of education~~] may[~~, by majority vote,~~] impose other sanctions, including, [~~but not limited to,~~] suspension without pay, [~~transfer notwithstanding the~~

~~provisions of KRS 160.380 and 161.760,~~] public reprimand or private reprimand. The ***procedures set out in subsection (2) of this section shall apply, except to a private reprimand. The teacher may appeal the action of the superintendent, except a private reprimand, in the same manner as established in subsections (3) through (7) of this section*** [~~decision to impose sanctions is within the discretion of the board after a hearing on the charges. Upon hearing both sides of the case, the board may impose a sanction or may defer its action for not more than five (5) days. The decision of the board shall be final~~]. Upon completion of a suspension period, the teacher may be reinstated.

Section 87. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten (10) nor more than fifty dollars ($50.00).

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not less than one hundred (100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) [~~Any superintendent who violates any of the provisions of KRS 160.420 shall be fined not less than one hundred (100) nor more than one thousand dollars ($1,000) for each offense.~~

~~(5)~~] Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty (50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

***(5)***[~~(6)~~] The State Board for Elementary and Secondary Education may withhold funds allotted under KRS 157.350 from any ***local district*** [~~board of education~~] which violates subsection ***(3)*** [~~(2)~~] of KRS 160.380 in the amount of one thousand dollars ($1,000) per violation.

***(6)***[~~(7)~~] In addition to penalties listed in this section, any ***local district*** [~~board of education~~] which violates subsection ***(3)***[~~(2)~~] of KRS 160.380 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

Section 88. KRS 161.990 is amended to read as follows:

(1) Any person who willfully violates any provisions of KRS [~~161.162 or~~] 161.164, shall be confined in jail for not less than thirty (30) days nor more than six (6) months. ***Any school board candidate who willfully violates any provision of KRS 161.164 shall be disqualified from holding the office of school board member.***

(2) Any teacher or employe of a district [~~board of education~~] who willfully violates any provision of KRS [~~161.162 or~~] 161.164 shall be ineligible for employment in the common schools for a period of five (5) years.

(3) Any person who violates any of the provisions of KRS 161.190 shall be guilty of a Class A misdemeanor.

(4) Any teacher who violates any of the provisions of subsection (2) of KRS 161.210 shall be subject to a fine of fifty dollars ($50) and upon conviction his certificate shall be revoked.

(5) A violation of any of the provisions of KRS 161.661 or 161.690 is a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars ($5,000).

Section 89. KRS 160.160 is amended to read as follows:

(1) Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(5), to be known as the "board of education of ______, Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vice-chairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.

(2) No board of education shall participate in any financing of school buildings, school improvements, appurtenances thereto, or furnishing and equipment without:

(a) First establishing the cost of the project in advance of [~~such~~] financing, based on the receipt of advertised, public, and competitive bids for such project, in accordance with KRS Chapter 424; and

(b) Establishing the cost of [~~such~~] financing in advance of the sale of any bonds, certificates of participation in any leases, or other evidences of financial commitments issued by or on behalf of such board. Any [~~such~~] bonds, leases, participations, or other financial arrangements shall not involve a final commitment of the board until the purchaser or lender involved shall have been determined by public advertising in accordance with KRS Chapter 424.

(3) No board of education shall make a mortgage, lien, or other encumbrance upon any school building owned by the board, or transfer title to any such school building as part of any financing arrangement, without the specific approval of the [~~state~~] Department of Education, and without ***the*** [~~such~~] transaction being entered into pursuant to a detailed plan or procedure specifically authorized by Kentucky statute.

(4) Without the approval of the [~~state~~] Department of Education, no board may lease, as lessee, a building or public facility that has been or is to be financed at the request of the board or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the board, or by a leasing corporation. Any [~~such~~] lease, participation, or other financial arrangement shall not involve a final commitment of the board unless and until the purchaser or lender involved in same shall have been determined by public advertising in accordance with KRS Chapter 424. No [~~such~~] transaction shall be entered into by the board except upon the basis of public advertising and competitive bidding in accordance with KRS Chapter 424.

Section 90. KRS 160.370 is amended to read as follows:

The superintendent shall be the executive agent of the board that appoints him and shall meet with the board except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules and regulations of the State Board for Elementary and Secondary Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters. He shall prepare, under the direction of the board, all rules, regulations, bylaws and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, [~~the management of teachers,~~] the discipline of pupils, and the management of business affairs. ***He shall be responsible for the hiring and dismissal of all personnel in the district.***

Section 91. KRS 160.390 is amended to read as follows:

[~~(1) The superintendent of schools may appoint necessary clerks, and may remove them at pleasure. The number and salaries of the clerks shall be determined by the board.~~

~~(2)~~] The superintendent shall devote himself exclusively to his duties. He shall exercise general supervision of the schools of his district, examine their condition and progress, and keep himself informed of the progress in other districts. He shall prepare or have prepared all budgets, salary schedules and reports required of his board by the State Board for Elementary and Secondary Education. He shall advise himself of the need of extension of the school system of the district, shall receive and examine reports from teachers and other school officers, and shall make reports from time to time as required by the rules of his board or as directed by the board. He shall be responsible to the board for the general condition of the schools. ***He shall be responsible for all personnel actions including hiring, assignments, transfer, dismissal, suspension, reinstatement, promotion, and demotion and reporting the actions to the local board.***

Section 92. KRS 160.440 is amended to read as follows:

Each board of education shall appoint a secretary for a term of one (1), two (2), three (3) or four (4) years. The secretary shall not be a member of the board of education. The board of education of any district may appoint its superintendent as secretary. ***However, a superintendent who serves as secretary to the board shall not receive compensation in addition to that which he receives for serving as superintendent.*** The board may fix a reasonable salary for the secretary. The secretary shall keep the records of the board and perform other duties imposed upon him by the board. All orders of the board must be signed by the secretary and countersigned by the chairman of the board. The secretary shall be custodian of all securities, documents, title papers and other papers of the board under such conditions as the board may direct. The secretary, when other than the superintendent, shall make all records of the board available to the superintendent and the board of education at any time and shall furnish the superintendent of schools and the board of education such information as is revealed by the records at any time upon the request of the superintendent or the board of education.

SECTION 93. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

*(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in Section 2 of this Act.*

*(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission.*

*(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.*

*(c) The Office of Education Accountability shall have the following duties and responsibilities:*

*1. Monitor the education system and implementation of the provisions of this Act including actions taken by the State Board for Elementary and Secondary Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by this Act.*

*2. Establish a division of school finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; and recommendations for the weights of various education program components, the base per pupil funding for the support education excellence in Kentucky program, and a statewide salary schedule. It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in Section 98 of this Act. The division shall submit an annual report of its activities, findings, and recommendations to the Governor, the Legislative Research Commission, and the State Board for Elementary and Secondary Education no later than October 1 each year.*

*3. Verify the accuracy of reports of school, district, and state performance by conducting, contracting for or requesting periodic program and fiscal audits as necessary. The Office of Education Accountability may request an audit from the State Committee for School District Audits as established in KRS 156.265.*

*4. Investigate allegations of wrongdoing of any person or agency including but not limited to waste, duplication, mismanagement, political influence and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the State Board for Elementary and Secondary Education and make recommendations for action to the Legislative Research Commission.*

*5. Conduct studies and analyze available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by this Act.*

*6. Make periodic reports to the Legislative Research Commission as directed by the Commission.*

*7. Prepare an annual report on the implementation of the provisions of this Act including recommendations for improvement which shall be submitted to the Governor, the Legislative Research Commission, and the State Board for Elementary and Secondary Education.*

*(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110 and may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).*

## PART III - FINANCE

Section 94. KRS 157.310 is amended to read as follows:

[~~In KRS 157.310 to 157.440 and subsection (2) of KRS 157.990,~~] It is the intention of the General Assembly to assure substantially equal public school educational opportunities[~~, through a foundation program,~~] for those in attendance in the public schools of the Commonwealth, but not to limit nor to prevent any school district from providing educational services and facilities beyond those assured by the ***state supported*** [~~foundation~~] program. ***The program shall***[~~; and to provide, as additional state funds are made available for the public schools, for the use of such funds for the further equalization of educational opportunities. KRS~~

~~157.310 to 157.440 and subsection (2) of KRS 157.990, shall be interpreted as a measure to~~] provide for an efficient system of public schools throughout the Commonwealth, as prescribed by Section 183 of the Constitution of Kentucky, and for the manner of distribution of the public school fund among the districts and its use for public school purposes, as prescribed by Section 186 of the Constitution.

Section 95. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, divided by the actual number of days the school is in session;

(2) ***"Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;***

***(3)*** "Board" means the board of education of any county or independent school district;

[~~(3) "Classroom unit" means the unit for measuring educational needs for foundation program purposes;~~]

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of ***the primary school program*** [~~grades kindergarten~~] through ***grade*** eight (8) ***as defined in KRS 158.030***, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) ***"Support Education Excellence in Kentucky"*** [~~"Foundation program"~~] means the level of educational services and facilities[~~, as defined in KRS 157.310 to 157.440,~~] which is to be provided in each district from the public school [~~foundation program~~] fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day or one-half (1/2) year, in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session. ***Kindergarten is the entry level of the primary program***;

(8) "Public school [~~foundation program~~] fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "[~~Kentucky~~] Administrative regulations of the State Board for Elementary and Secondary Education" means those regulations which the State Board for Elementary and Secondary Education may adopt upon the recommendation and with the advice of the ***chief state school officer*** [~~superintendent of public instruction~~]. The ***chief state school officer*** [~~superintendent of public instruction~~] shall recommend ***administrative*** [~~for adoption by the State Board for Elementary and Secondary Education such rules and~~] regulations [~~as he deems~~] necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience and such other factors as the State Board for Elementary and Secondary Education may approve and which does not discriminate between salaries paid elementary and secondary teachers;

(13) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(14) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days membership of pupils in a public school for the school year.

***(15) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board.***

Section 96. KRS 157.330 is amended to read as follows:

(1) There is hereby established the ***fund to support education excellence in Kentucky*** [~~public school foundation program fund~~] consisting of appropriations for distribution to districts in accordance with the provisions of KRS 157.310 to 157.440.

(2) The resources of the public school [~~foundation program~~] fund shall be paid into the State Treasury, and shall be drawn out or appropriated only in aid of public schools as provided by statute.

Section 97. KRS 157.350 is amended to read as follows:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the ***fund to support education excellence in Kentucky*** [~~public school foundation program funds~~]:

(1) Employs and compensates all teachers for not less than one hundred eighty-five (185) days. ***The*** [~~; provided, that the~~] State Board for Elementary and Secondary Education, upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall prescribe procedures ***by which*** [~~whereby~~] this requirement may be reduced during any year for any district which employs teachers for less than one hundred and eighty-five (185) days, in which case the eligibility of a district for participation in the public school [~~foundation program~~] fund shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and administrative regulations of the State Board for Elementary and Secondary Education.[~~; provided, however, that~~] If the school term is less than one hundred eighty-five (185) days for any reason not approved by the State Board for Elementary and Secondary Education on recommendation of the ***chief state school officer,*** [~~superintendent of public instruction~~] the eligibility of a district for participation in the public school [~~foundation program~~] fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Includes no nonresident pupils in its average daily attendance, except by written agreement with the district of the pupils' legal residence. This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital;

(5) Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same ***program*** for girls;

(6) Any school district which fails to comply with subsection (5) shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the Department of Education after a hearing requested by any person within the school district. A district under this subsection shall, at such hearing, have an opportunity to show inability to comply.

Section 98. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the [~~foundation~~] program ***to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.***

***(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:***

***(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly;***

***(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than July 1, 1992, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different disabilities, an appropriate pupil-teacher ratio, and total per-pupil costs; and***

***(c) Transportation costs. The per pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than July 1, 1992, the Kentucky Commission on School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education.***

***Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students*** [~~for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.~~

~~(2) Unless otherwise provided by the General Assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:~~

~~(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year, one (1) teacher aide shall be provided for each kindergarten unit allotted;~~

~~(b) Classroom units for grade one (1) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;~~

~~1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;~~

~~1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and~~

~~1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;~~

~~(c) Classroom units for grade two (2) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;~~

~~1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and~~

~~1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;~~

~~(d) Classroom units for grade three (3) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and~~

~~1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;~~

~~(e) Classroom units for grade four (4) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;~~

~~1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;~~

~~1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and~~

~~1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;~~

~~(f) Classroom units for grade five (5) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and~~

~~1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;~~

~~(g) Classroom units for grade six (6) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and~~

~~1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;~~

~~(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned~~

~~to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the General Assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12); as provided in subsections (9) and (10) of this section~~].

(3) ***The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. During the four (4) year phase-in period, no district shall receive an annual increase in state funds of less than five percent (5%) or more than twenty-five percent (25%).***

***(4) Except for those schools which have implemented school-based decision making,*** the ***chief state school officer*** [~~superintendent of public instruction~~] shall enforce maximum class sizes for every academic course requirement [~~of the State Board for Elementary and Secondary Education~~] in ***all*** [~~kindergarten and~~] grades [~~one (1) through eight (8)~~] except in vocal and instrumental music, art, physical education, and special education classes. Except in classes combining pupils from two (2) or more grade levels, the [~~maximum~~] number of pupils enrolled in a class shall be ***as follows:***

***(a) Twenty-two (22) in primary grades (kindergarten through third grade) with a maximum of twenty-five (25);***

***(b) Twenty-five (25) in grade four (4) with a maximum of twenty-eight (28);***

***(c) Twenty-six (26) in grades five (5) and six (6) with a maximum of twenty-nine (29);***

***(d) Twenty-seven (27) in grades seven (7) to twelve (12) with a maximum of thirty-one (31).***

***The chief state school officer*** [~~calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction~~], upon approval of the State Board for Elementary and Secondary Education, shall adopt ***administrative*** regulations for enforcing this provision. These ***administrative*** regulations shall include procedures ***for*** [~~whereby~~] a superintendent ***to*** [~~may~~] request an exemption from the State Board for Elementary and Secondary Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in ***the primary grades*** [~~kindergarten~~] and grades ***four (4)*** [~~one (1)~~] through eight (8).

***(5)***[~~(4)~~] In ***grades four (4) through six (6)*** [~~classes~~] with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

***(6)***[~~(5)~~] If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, [~~then~~] the school district shall count [~~this~~] as average daily attendance in a public school the time that ***the*** [~~such~~] child is in attendance at ***the*** [~~such~~] school or agency, contingent upon approval by the ***chief state school officer*** [~~state superintendent of public instruction and pursuant to KRS 158.130~~].

***(7)***[~~(6)~~] Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employees of each school district which is a party to the agreement.

***(8)***[~~(7)~~] ***Program funding*** [~~Allotments of classroom units, except those allotted in accordance with subsection (8) of this section,~~] shall be increased when the average daily attendance in [~~kindergarten and grades one (1) through twelve (12) in~~] any district for the first two (2) months of the current school year is greater than the average daily attendance of the district [~~in kindergarten and grades one (1) through twelve (12)~~] for the first two (2) months of the previous school year. The ***program funds*** [~~total number of classroom units~~] allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

***(9)***[~~(8)~~] If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the ***program funding*** [~~number of classroom units~~] allotted the district[~~, except those allotted in accordance with subsection (7) of this section,~~] for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

[~~(9) (a) Unless otherwise provided by the General Assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board for vocational-technical, adult education and vocational rehabilitation services; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board for vocational-technical, adult education and vocational rehabilitation services. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the Governor.~~]

***(10) (a)***[~~(b)~~] Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the Department of Education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

***(b)***[~~(c)~~] Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the ***chief state school officer*** [~~state superintendent of public instruction~~] a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state Department of Education to determine that the summer plan has been properly executed.

[~~(10) (a) Through the 1987-88 school year, one (1) classroom unit shall be included upon the employment of each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky Administrative Regulations of the State Board for Elementary and Secondary Education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the Governor;~~

~~(b) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky Administrative Regulations of the State Board for Elementary and Secondary Education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in Administrative Regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without State Board for Elementary and Secondary Education approval based on unique or unusual district characteristics including, but not limited to, federal census population being substantially higher than the district's student enrollment;~~

~~(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to~~

the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by Administrative Regulations for the pupil's specific type of classroom unit; and

(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.]

(11) (a) In allotting ***program funds*** [~~classroom units~~] for home and hospital instruction, ***statewide guaranteed base funding*** [~~one (1) unit~~] excluding the capital outlay [~~allotment~~], shall be allotted for each ***child*** [~~ten (10) children~~] in average daily attendance in the current school year who ***has*** [~~have~~] been properly identified according to State Board for Elementary and Secondary Education ***administrative*** regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative ***regulations*** [~~regulation~~] to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, ***and*** a reasonable allotment for travel expenses to and from instructional assignments, but ***the*** [~~such~~] formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

[~~(12) Unless otherwise provided by the General Assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.~~

~~(13) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.~~

~~(14) Unless otherwise provided by the General Assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.~~

~~(15) In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.~~

~~(16) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky Administrative Regulations of the State Board for Elementary and Secondary Education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the Governor.~~

~~(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky Administrative Regulations of the State Board for Elementary and Secondary Education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections (12) and (13) of this section for related services for exceptional children.~~]

Section 99. KRS 157.370 is amended to read as follows:

(1) In determining the cost of ***transportation*** [~~the foundation program~~] for each district, the ***chief state school officer*** [~~superintendent of public instruction~~] shall determine the average cost per pupil per day of transporting pupils in districts having a similar density of transported pupils per square mile of area served by not less than nine (9) different density groups.

(2) The annual cost of transportation shall include all current costs for each district plus annual depreciation of pupil transportation vehicles calculated in accordance with the [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education for such districts that operate district-owned vehicles.

(3) The aggregate and average daily attendance of transported pupils shall include all public school pupils transported at public expense who live one (1) mile or more from school.[~~, provided that~~] Handicapped children may be included who live less than this distance from school. The aggregate and average daily attendance referred to in this subsection shall be the aggregate and average daily attendance of transported pupils the prior year adjusted for current year increases in accordance with State Board for Elementary and Secondary Education ***administrative*** regulations.

(4) The square miles of area served by transportation shall be determined by subtracting from the total area in square miles of the district the area not served by transportation[~~, determined~~] in accordance with [~~the Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education. ***However,*** [~~provided that~~] if one district authorizes another district to provide transportation ***services*** for a part of its area, ***this*** [~~such~~] area [~~served~~] shall be deducted from the area served by ***the authorizing*** [~~that~~] district and added to the area served by the district ***actually*** providing the transportation.

(5) The density of transported pupils per square mile of area served for each district shall be determined by dividing the average daily attendance of transported pupils by the number of square miles of area served by transportation.

(6) The ***chief state school officer*** [~~superintendent of public instruction~~] shall determine the average cost per pupil per day of transporting pupils in districts having a similar density by constructing a smoothed graph of cost for ***the*** [~~all~~] density groups ***required by*** [~~as provided in~~] subsection (1). This graph shall be used to construct a scale showing the average costs of transportation for districts having a similar density of transported pupils. [~~Such~~] Costs shall be determined separately for county school districts and independent school districts.[~~, provided that~~] No independent school district will receive an average cost per pupil per day in excess of the minimum received by any county district or districts. These costs shall be the costs per pupil per day of transported pupils included in the ***public school fund*** [~~foundation program~~] and ***these*** [~~such~~] costs shall be recalculated each biennium.

(7) The scale of transportation costs included in the ***fund to support education excellence in Kentucky*** [~~foundation program~~] for county and independent districts is determined in accordance with the provisions of KRS 157.310 to 157.440 for the biennium beginning July 1, ***1990*** [~~1960~~].

(8) The cost of transporting a district's pupils from the parent school to a state vocational-technical school or to a vocational educational center shall be calculated separately from the calculation required by subsections (1) through (7) of this section. The amount calculated shall be paid separately to each district from [~~minimum foundation~~] program funds budgeted for vocational pupil transportation, as a reimbursement based on the district's cost for providing this service. The amount of reimbursement shall be calculated in accordance with State Board for Elementary and Secondary Education ***administrative*** regulations. In the event that the appropriation for vocational pupil transportation in the biennial budget is insufficient to meet the total calculated cost of this service for all districts, the amount paid to each district shall be ratably reduced. For the purpose of this subsection, the parent school shall be interpreted to mean that school in which the pupil is officially enrolled in a district's public common school system.

(9) The State Board for Elementary and Secondary Education[~~, by Kentucky administrative regulation,~~] shall determine the type of handicapped pupil that qualifies for special type transportation to and from school. Those qualified pupils for which the district provides special type transportation shall have their aggregate days attendance multiplied by five (5.0) and added to that part of the district's aggregate days attendance that is multiplied by the district's adjusted cost per pupil per day in determining the district's pupil transportation program cost for allotment purposes.

Section 100. KRS 157.390 is amended to read as follows:

(1) (a) The ***chief state school officer*** [~~superintendent of public instruction~~], under [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the State Board for Elementary and Secondary Education or equivalent preparation and who have earned thirty (30) semester hours of approved graduate work or its equivalent, and those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the State Board for Elementary and Secondary Education or equivalent preparation.

Rank III. Those holding regular certificates and who have an approved four-year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent[~~; provided, however, that persons holding emergency certificates shall not be classified higher than this rank for calculation of the amount to be included in the foundation program~~].

Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(b) In determining ranks, the ***chief state school officer*** [~~superintendent of public instruction~~], under [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit. The ***chief state school officer*** [~~superintendent of public instruction~~], in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(c) Nothing in this subsection shall allow the State Board for Elementary and Secondary Education by regulation to reclassify downward any teachers currently in Ranks I or II.

(2) [~~(a)~~] The ***chief state school officer*** [~~superintendent of public instruction~~], under [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:

[~~1. Zero to three (3) years;~~

~~2. Four (4) to nine (9) years;~~

~~3. Ten (10) to fourteen (14) years; and~~

~~4. Fifteen (15) or more years.~~

~~(b) Effective July 1, 1987, the years of categories of experience shall be as follows:~~]

1. Zero (0) to three (3) years;

2. Four (4) to nine (9) years;

3. Ten (10) to fourteen (14) years;

4. Fifteen (15) to nineteen (19) years; and

5. Twenty (20) or more years.

(3) (a) [~~The state salary schedule shall be amended to increase the base pay five percent (5%) in 1986-87 and an additional five percent (5%) in 1987-88;~~

~~(b) In addition, in 1986-87 the category with ten (10) to fourteen (14) years of experience shall also receive a three hundred dollar ($300) increase in base pay and the category with fifteen (15) or more years of experience shall receive a seven hundred dollar ($700) increase in base pay; and~~

~~(c) In 1987-88 the category with ten (10) to fourteen (14) years of experience shall receive an additional five hundred dollars ($500) in base pay, the category with fifteen (15) to nineteen (19) years of experience shall receive an additional increase of nine hundred dollars ($900) in base pay, and the category with twenty (20) or more years of experience shall receive an additional increase of one thousand three hundred dollars ($1,300) in base pay.~~

~~(4) (a)~~] The rank and experience of the teacher shall be determined on September 15. [~~If a teacher is certified for a higher rank by the department of education between September 15 and January 31, then five-tenths (0.5) of the classroom unit shall be based on the September 15 rank of the teacher and five-tenths (0.5) of the unit shall be based on the rank earned by the teacher by January 31 of the school year.~~]

(b) The amount to be included in each school year in the ***base funding level*** [~~foundation program~~] of a district for teachers' salaries shall be ***based on the categories of experience in subsection (2) of this section.*** [~~determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days. Provided, the amount to be included for units allotted under KRS 157.360(9), (11), (12), (13) and (14) shall be increased proportionately if the personnel for such units~~

~~are employed for longer than the regular school term and such employment is approved by the superintendent of public instruction under Kentucky administrative regulations of the state board. Where the actual number of teachers employed by the district varies from the number allowed under the provisions of KRS 157.310 to 157.440, the number to be included in each rank shall be in the same ratio that the number of teachers actually in each rank is to the total number of teachers employed.~~

~~(5) The amount to be included in the foundation program for other current expenses shall be determined by multiplying the number of classroom units by the amounts set forth in the biennial budget.~~]

***(4)***[~~(6)~~] The amount to be included in the ***base funding level*** [~~foundation program~~] for capital outlay shall be determined by multiplying the ***average daily attendance*** [~~number of classroom units except those allotted pursuant to KRS 157.360(10)(c) and (d)~~] by the amounts set forth in the biennial budget.

***(5)***[~~(7)~~] The amount to be included in the ***public school fund*** [~~foundation program~~] of each district for transportation shall be determined [~~by multiplying the aggregate attendance of transported children by the allowable cost per pupil per day for that district determined~~] in accordance with the provisions of KRS 157.370.

***(6)***[~~(8)~~] The total amount of money distributable to each district from the public school [~~foundation program~~] fund shall be the sum of the allotments in subsections ***(3),*** (4), ***and*** (5)[~~, (6) and (7)~~] of this section.

***(7) The State Board for Elementary and Secondary Education shall create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, non-teaching experience, length of work year, performance, and any other professionally recognized factors which the board considers relevant. The plan shall be developed during the 1990-92 biennium and be implemented in fiscal year 1992-93.***

Section 101. KRS 157.410 is amended to read as follows:

For each school year the Finance and Administration Cabinet, on the certification of the ***chief state school officer*** [~~superintendent of public instruction~~], shall draw warrants [~~as specified hereinafter~~] on the State Treasurer for the amount of the public school [~~foundation program~~] fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education for distribution to the proper officials of the [~~several~~] school districts when the districts have fully complied with the school laws and [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education. The ***chief state school officer*** [~~superintendent of public instruction~~] shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth (1/12) of each district's share of the tentative calculation for instructional salaries, current expenses, and transportation of the public [~~common~~] school [~~foundation program~~] fund shall be distributed. On or before May 1 of each year the ***chief state school officer*** [~~superintendent of public instruction~~] shall determine the exact amount of the public common school [~~foundation program~~] fund to which each district is entitled[~~, except those funds allotted pursuant to KRS 157.360(10)(c) and (d)~~] and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter. [~~Final allotment of funds due each district pursuant to KRS 157.360(10)(c) and (d) shall not be calculated and distributed to the district until the last monthly report is received by the Department of Education.~~] Capital outlay shall be made in two (2) payments. The first, on or before October 1, shall be one-half (1/2) of the amount calculated on the tentative allocation for capital outlay. The balance due shall be paid on or before May 1.

Section 102. KRS 157.430 is amended to read as follows:

If, when the apportionments are being determined under the provisions of KRS 157.310 to 157.440, funds appropriated by the General Assembly to the public school [~~foundation program~~] fund are insufficient to provide the amount of money required under [~~subsection (8) of~~] KRS 157.390, the ***chief state school officer*** [~~superintendent of public instruction~~], unless otherwise provided by the General Assembly in a budget bill, shall make a percentage reduction in the allotments to reduce the total of these allotments to funds available.

SECTION 103. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

***The integrated technology based communications system, established by Section 22 of this Act, shall be used by the Department of Education to conduct internal fiscal, management, and compliance audits of each school district in the Commonwealth on an annual basis. A copy of the audit shall be submitted to the Legislative Research Commission, the Governor, and the State Board for Elementary and Secondary Education.***

SECTION 104. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

***There is hereby established an equalized facilities support program. The program is established for the purpose of providing a supplemental funding source for each school district in the Commonwealth to finance capital construction projects, debt service expenditures, and other education related programs or projects which the board of education of each school district determines are necessary for the efficient operation of the schools within the district.***

SECTION 105. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

***(1) In order for a school district to qualify for participation in the equalized facilities support program, the local board of education shall levy a minimum equivalent tax rate of five cents (5) as defined by KRS 157.615.***

***(2) All revenue generated by the tax authorized by subsection (1) of this section shall be placed in an equalized facilities support fund which shall be used to finance capital construction projects and debt service expenditures. However, the local board of education may transfer funds from the equalized facilities support fund to the general fund to finance any other necessary education related projects or programs if there are no outstanding bonds on which debt service expenditures must be made. Upon the issuance of capital construction bonds, all revenue generated under this section shall be restricted for bond debt service.***

***(3) Only revenue generated by the tax authorized by subsection (1) of this section which is actually used to finance capital construction projects or debt service expenditures on bonds shall be equalized by the Commonwealth. Equalization shall begin when a contract or other legally binding obligation for a capital construction project is executed, or the bond which is to be financed by this revenue has been issued. Revenue which is actually used to finance any other necessary education related project or program shall not be equalized.***

SECTION 106. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

***Any equalized facility support program funds which are dedicated to construction of new facilities or major renovation of existing school facilities may be used to qualify for participation in the School Facilities Construction Commission program set forth in KRS 157.611 to 157.640.***

SECTION 107. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

***(1) To carry out the purpose of rewarding successful schools as provided in KRS Chapter 158, the Kentucky successful schools trust fund is hereby established in the Finance and Administration Cabinet. Funds appropriated by the General Assembly in each biennial budget for payments of rewards to successful schools shall be credited to the fund and invested until needed for payments to successful schools. All interest earned on moneys in the funds shall be retained in the fund for reinvestment.***

***(2) Upon certification of eligibility by the State Board for Elementary and Secondary Education, the Finance and Administration Cabinet shall issue a warrant and the State Treasurer shall issue a check to the eligible school. All moneys credited to the fund, including interest, shall be used only for payments to eligible schools and shall not lapse, but shall be carried forward in the next biennial budget.***

Section 108. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the board of education of each school district. The tax-levying authority shall levy an ad valorem tax within the limits prescribed in KRS 160.470, which will obtain for the school district the amount of money needed as shown in the district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received and approved by the State Board for Elementary and Secondary Education. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment, which is hereby authorized for independent school districts embraced by cities of the first four classes, the clerk of ***the*** [~~such~~] city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in ***the*** [~~such~~] district or districts, as certified by the Kentucky ***Revenue Cabinet*** [~~tax Board of Tax Appeals~~]. ***No later than July 1, 1994, all real property located in the state and subject to local taxation shall be assessed at one hundred percent (100%) of fair cash value.***

Section 109. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the State Board for Elementary and Secondary Education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the Revenue Cabinet of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in subsection ***(12) of this section and KRS 157.440*** [~~(1) of KRS 157.564~~]. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection ***(12) of this section and KRS 157.440*** [~~(1) of KRS 157.564~~].

(b) In the event that an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "... general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year ...," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate within the limits imposed in subsection (2) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection ***(12) of this section and KRS 157.440*** [~~(1) of KRS 157.564~~], until the district board of education has complied with the provisions of subsection (10) of this section.

(4) The ***chief state school officer*** [~~superintendent of public instruction~~] shall certify ***the following*** to each district board of education, by June 30 of each year[~~, the following~~]:

(a) The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(c) The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(5) Upon completion of action on property assessment data the Department of Revenue shall submit [~~to the superintendent of public instruction,~~] certified property assessment data as required in KRS 133.125 ***to the chief state school officer.***

(6) Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the State Board for Elementary and Secondary Education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(7) The budget shall be disapproved by the State Board for Elementary and Secondary Education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal [~~of~~] and interest on any outstanding voted school improvement bonds of the school district, authorized and issued pursuant to KRS 162.080 and 162.090[~~;~~] with the written approval of the State Board for Elementary and Secondary Education,[~~;~~] or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of ***a*** [~~the independent~~] school district [~~or county school district, as the case may be,~~] by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the State Board for Elementary and Secondary Education.[~~,~~] or

***(c)*** Fails to comply with the law.[~~; and~~]

The State Board for Elementary and Secondary Education shall state ***the*** [~~its~~] reason[~~, or reasons,~~] for [~~such~~] disapproval ***and*** [~~.In such event~~] the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the State Board for Elementary and Secondary Education for [~~its~~] final approval.

(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy [~~in accordance therewith,~~] so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the State Board for Elementary and Secondary Education.

(9) Each district board of education shall[~~, if required by the State Board for Elementary and Secondary Education, prepare and~~] submit ***to the State Board for Elementary and Secondary Education no*** [~~to it not~~] later than September 15, a close estimate or working budget which shall conform to the ***administrative*** [~~rules and~~] regulations prescribed by the State Board for Elementary and Secondary Education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(10) (a) ***Except as provided in subsection (12) of this section and KRS 157.440,*** a district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate within the limits of subsection (2) of this section which exceed the compensating tax rate defined in KRS 132.010[~~,~~] shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district[~~,~~] or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing ***the following*** to be published at least twice ***for*** [~~in~~] two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches[~~, the following~~]:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for [~~such~~] testimony.

(11) (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in subsection ***(12) of this section and KRS 157.440*** [~~(1) of KRS 157.564~~], levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of

revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education[~~, such as the case may be,~~] as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in subsection ***(12) of this section and KRS 157.440*** [~~(1) of KRS 157.564~~], which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause ***the following*** to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches [~~the following~~]:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county or urban county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

***(12) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents (30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes, excluding revenue from any voted building tax which is being used for bond debt service, is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.***

***(b) If a board of education fails to levy the required minimum equivalent tax rate of thirty cents (30) during any school year, funds provided through the state program to support education excellence in Kentucky shall be reduced according to provisions set out in administrative regulations of the State Board for Elementary and Secondary Education.***

Section 110. KRS 157.420 is amended to read as follows:

Public school [~~foundation program~~] funds made available to the credit of each district during any year[~~,~~] shall be received, held and expended by the district board, subject to the provisions of law and [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education. The following restrictions shall govern the expenditure of funds from the public school [~~foundation program~~] fund:

(1) The teachers' salaries allotment for each district from the public school [~~foundation program~~] fund and from local sources shall be used only for teachers holding properly authorized certificates. The average salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days and no teacher shall be paid less than ninety-three percent (93%) of the public school [~~foundation program~~] fund allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390***(3)***[~~(4)~~] shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The State Board for Elementary and Secondary Education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for [~~foundation program instructional~~] salaries ***paid from the base funding*** is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for [~~foundation program~~] instructional salaries ***paid with state funds*** the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same [~~classroom units and~~] rank and experience of teachers in the current year as in the preceding year.

(3) The ***per pupil*** capital outlay allotment for each district from the public school [~~foundation program~~] fund and from local sources shall be kept in a separate ***account*** [~~fund~~] and may be used by the district only for capital outlay projects approved by the ***chief state school officer*** [~~superintendent of public instruction~~]

in accordance with requirements of law, and based on a survey made in accordance with [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the State Board for Elementary and Secondary Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(4) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the ***chief state school officer*** [~~superintendent of public instruction~~] under [~~Kentucky~~] administrative regulations of the State Board for Elementary and Secondary Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(5) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (3) of this section, upon approval of the ***chief state school officer*** [~~superintendent of public instruction~~], these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers and other technological hardware to be utilized for educational purposes only.

Section 111. KRS 157.440 is amended to read as follows:

(1) ***(a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1991, the board of education of each school district may levy an equivalent tax rate as defined in subsection (12)(a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1992-93 school year shall be made no later than October 1, 1991, and by October 1 of each odd numbered year thereafter. Effective with the 1992-93 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil equalized assessment.***

***(b) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(10) or to the recall provisions of KRS 160.470(11).***

***(c) During the phase-in period, a school district which is at or above the equivalent tax rates permitted under the provisions of this Act shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.***

***(2)*** A district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of subsection (1) of KRS 160.477, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. ***The rate that may be levied under this section may produce revenue up to no more than fifteen percent (15%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by KRS 157.440. Revenue produced by this levy shall not be equalized with state funds.*** If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

***(3)***[~~(2)~~] For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection ***(4)***[~~(3)~~] of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

***(4)***[~~(3)~~] Notwithstanding the limitations contained in subsection ***(3)***[~~(2)~~] of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS chapter 162.

***(5)***[~~(4)~~] The ***chief state school officer*** [~~superintendent of public instruction~~] shall certify the compensating tax rate to the levying authorities.

### SECTION 112. KRS 160.463 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school board of each public school system in any county having 300,000 or more inhabitants shall direct its superintendent to publish, in full, annually, in the newspaper of the largest general circulation in the county, the annual financial statements of the school system audited by certified public accountants or an accountant approved by the state Department of Education. Each system's financial statements shall be prepared and presented on a basis consistent with that of the other systems.

### SECTION 113. KRS 160.473 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In the event that a general tax rate, voted general tax rate, or voted building tax rate applicable to real property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the general tax rate, voted general tax rate, or voted building tax rate levied by the district board of education applicable to personal property exceed the prior year general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education.

(2) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470(10) and to the recall provisions of KRS 160.470(11).

### SECTION 114. KRS 160.474 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In the event that the general tax rate, voted general tax rate, or voted building tax rate levied by a district board of education for 1979-80, 1980-81 or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81, and 1981-82. Such a general tax rate, voted general tax rate, or voted building tax rate may be in addition to the general tax rate, voted general tax rate, or voted building tax rate levied under the provisions of KRS 160.473.

(2) The general tax rate, voted general tax rate, or voted building tax rate levied under the provisions of KRS 160.473 and subsection (1) of this section shall not exceed the general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education in 1981-82.

(3) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education shall not be subject to the public hearing provisions of KRS 160.470(10) and to the recall provisions of KRS 160.470(11).

### Section 115. KRS 160.475 is amended to read as follows:

(1) Except as otherwise provided in KRS ***157.440,*** 160.470(2), 160.476(4) and 160.477(6) the ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not more than one dollar and fifty cents ($1.50) annually on each one hundred dollars ($100) of property subject to local taxation.

(2) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

### Section 116. KRS 160.476 is amended to read as follows:

(1) The board of education of any district may, in addition to other taxes for school purposes, levy not less than four cents (4) nor more than twenty cents (20) on each one hundred dollars ($100) valuation of property subject to local taxation, to provide a special fund for the purchase of sites for school buildings

and physical education and athletic facilities, for the erection and complete equipping of school buildings and physical education and athletic facilities, and for the major alteration, enlargement and complete equipping of existing buildings and physical education and athletic facilities, provided, however, that such tax shall come within the maximum school tax levy provided by KRS 160.470. In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and all or any balances remaining in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(2) The special fund provided for herein shall be kept in a separate account designated as "school building fund." The fund shall be kept in a depository selected by the board of education, or invested in bonds of the United States, of this state, or county or municipality in this state, provided, however, that such investments shall be approved by the State Board for Elementary and Secondary Education.

(3) All expenditures from such fund shall be made solely for the purposes enumerated herein and shall be made in accordance with the school laws of the state at such times as the board of education determines. The board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state Department of Education.

(4) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010. The ***chief state school officer*** [~~superintendent of public instruction~~] shall certify the compensating tax rate to the district board of education.

SECTION 117. KRS 160.477 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) Upon request of the board of education of any school district, the county board of elections shall submit to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five cents (5) nor more than fifty cents (50) as requested by the board shall be levied on each one hundred dollars ($100) of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470. The income from the tax shall be used for the purchase or lease of school sites and buildings and physical education and athletic facilities, for the erection and complete equipping of new school buildings and physical education and athletic facilities, for the major alteration, enlargement and complete equipping of existing buildings, and physical education and athletic facilities, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school improvements, for the purpose of providing maintenance and insurance for school facilities, and for the purpose of financing any program for the acquisition, improvement, or building of school improvements. The question shall be so framed that the voter may by his vote answer "for" or "against;"

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county board of elections, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district; and

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall, when the next tax rate for the district is fixed, levy the special rate specified for the school building fund in addition to the levy provided by subsection (2) of KRS 160.470.

(2) There may be included, in the maximum levy provided for in subsection (2) of KRS 160.470, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state, provided, however, that such investment shall be approved by the State Board for Elementary and Secondary Education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building

fund by a certified public accountant or by an accountant approved by the State Board for Elementary and Secondary Education.

(6) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(7) Notwithstanding the limitations contained in subsection (6) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapters 58 and 162.

## PART IV - AMENDMENTS TO CONFORM

Section 118. KRS 42.550 is amended to read as follows:

The Department of Education shall make a report according to generally accepted accounting principles of all money received and disbursed from the common school fund[~~, the minimum foundation program,~~] and the ***Support Education Excellence in Kentucky (SEEK)*** [~~power equalization~~] program, to local school districts showing their receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each fund to the State Investment Commission for each fiscal year on or before the 15th of July.

Section 119. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice-chairman of the commission, the Attorney General, the secretary of the ***Cabinet for Economic Development*** [~~Commerce Cabinet~~], the secretary of the Finance and Administration Cabinet and the secretary of the Revenue Cabinet, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee or other remuneration for his services as a member of the commission but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission ***shall constitute*** [~~constitutes~~] a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of ***the*** [~~said~~] state agency as may be specified and provided in ***the*** [~~such~~] approved application, and any covenants and undertakings of ***the*** [~~said~~] state agency in ***the*** [~~such~~] approved application with regard to the production of [~~such~~] revenues and the use, application or disposition thereof may be enforced by the holders of any ***the*** [~~such~~] revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by the Kentucky Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, ch. 109 shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one unit within the meaning of the regulations of the United States

Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission ***shall be*** [~~is hereby~~] authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any [~~such~~] designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature whether the same has been revoked, and when; and ***the*** [~~such~~] joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One (1) alternate may be substituted for a member in order to establish a quorum, provided that no business is transacted beyond the scope of authority of ***an*** [~~such~~] alternate.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 120. KRS 61.330 is amended to read as follows:

Upon retiring from office the ***chief state school officer*** [~~superintendent of public instruction~~] shall deliver to his successor all books, papers and effects belonging to the office, and on failure to do so he shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), which shall be recovered by indictment in the Franklin Circuit Court.

Section 121. KRS 68.180 is amended to read as follows:

(1) The fiscal court of each county having a population of three hundred thousand (300,000) or more, may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate or rates not to exceed one and one-fourth per cent (1 1/4%) of (a) salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county, and (b) the net profits of businesses, trades, professions or occupations from activities conducted in the county. License ***fees*** imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training, or in other cases where the county is prohibited by law from imposing a license tax.

(2) The provisions and limitations of subsection (1) ***shall*** [~~do~~] not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 122. KRS 68.185 is amended to read as follows::

(1) The fiscal court of ***each county having a population of three hundred thousand (300,000) or more*** [~~said counties~~] may provide for the levy, [~~the~~] assessment and [~~the~~] collection of the license fees authorized by KRS 68.180 and 160.482 to 160.488, provide for the issuance and enforcement of licenses, and specify the county governmental purposes to which the revenue derived from license fees authorized by KRS 68.180 shall be applied.

(2) In making the provisions described in subsection (1), and without limiting them, the fiscal court may, by resolution or order adopt reasonable rules or regulations requiring the preparation and filing of

timely, accurate, and truthful returns, accounts, and license applications which will aid in the determination of the amount of the fee.

Section 123. KRS 68.990 is amended to read as follows::

(1) Any outgoing county treasurer who fails for ten (10) days to comply with any of the provisions of KRS 68.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(2) The fiscal court and each ***of its members who*** [~~member~~ ~~thereof~~ ~~that~~] fails or refuses to comply with any of the provisions of KRS 68.080 shall be fined fifty dollars ($50) for each offense.

(3) Any county officer or member of a fiscal court who violates any of the provisions of KRS 68.110(3) shall be fined not less than one hundred (100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both.

(4) The fiscal court and each ***of its members who*** [~~member~~ ~~thereof~~ ~~that~~] fails or refuses to implement a system of uniform accounts as prescribed by the state local finance officer pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(5) Any local government official who fails to submit a financial report requested by the state local finance officer pursuant to KRS 68.210 shall, fifteen (15) days after written notice of non-compliance by the state local finance officer, be fined two hundred fifty dollars ($250) per day until compliance.

(6) Any county or state officer who knowingly violates any of the provisions of KRS 68.250(4), 68.270, 68.280, 68.310, or 68.320 shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his office declared vacant, and may also be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both.

(7) Any county officer who willfully violates any of the provisions of KRS 68.010, 68.020(4), 68.220 to 68.260, 68.290, 68.300 or 68.360 shall be fined not less than fifty (50) nor more than two hundred dollars ($200).

(8) Any person, including a corporation, who ***willfully*** [~~wilfully~~] fails to prepare or file a timely return, account, or license application described in KRS 68.185, or who ***willfully*** [~~wilfully~~] prepares or files a false or inaccurate return, account, or license application shall be fined not more than one hundred dollars ($100).

Section 124. KRS 96.536 is amended to read as follows:

(1) Each board of education of a public school district in which is located the property or properties of a publicly owned light, water, or gas plant may each year be paid by the governing board of ***the*** [~~such~~] plant from the proceeds of the sale of electrical energy, water or gas an amount which shall not exceed that determined by multiplying the book value of the property or properties of ***the*** [~~such~~] publicly owned light, water or gas plant as of the beginning of each year by the current tax rate levied for school purposes for the school district in which ***the*** [~~such~~] property or properties may be located. "Book value," as used in this section, means the cost of tangible property plus additions, extensions and betterments, less reasonable depreciation or retirement reserve, and "year" as herein used shall mean the twelve (12) month period ending June 30. The book value so determined shall be in accordance with standard accounting practices. No payment may be made under this section except pursuant to a resolution of the governing board of the plant, adopted by a unanimous vote of the members of the board.

(2) Amounts for any year, as provided in subsection (1) of this section, shall be paid to the board of education on or before January 1 of each year.

(3) This section shall not apply to any publicly owned electric plant that is subject to the provisions of KRS 96.820.

(4) This section shall be construed only as an enabling act and shall in no ***way*** [~~wise~~] confer upon any board of education of a public school district authority to require this money to be paid to it.

Section 125. KRS 96.820 is amended to read as follows:

(1) For the purposes of this section, unless the context requires otherwise:

(a) "Taxing jurisdiction" shall mean each county, each school district, each municipality, and each other special taxing district located within the state.

(b) "State" shall mean the Commonwealth of Kentucky.

(c) "Tax equivalent" shall mean the amount in lieu of taxes computed according to this section which is required to be paid by each board to the state and to each taxing jurisdiction in which the board operates and required by subsection (11) of KRS 96.570 to be included in resale rates.

(d) "Tax year" shall mean the twelve-calendar-month period ending with December 31.

(e) "Current tax rate" shall mean the actual levied ad valorem property tax rate of the state and of each taxing jurisdiction which is applicable to all property of the same class as a board's property subject to taxation for the tax year involved.

(f) "Book value of property" or "book value of property owned by the board" shall mean the sum of:

1. The original cost (less reasonable depreciation or retirement reserve) of a board's electric plant in service on December 31 of the immediately preceding calendar year located within the state, used and held for use in the transmission, distribution, and generation of electric energy, and

2. The cost of the material and supplies owned by a board on December 31 of the immediately preceding calendar year. For the purpose of this definition, "electric plant in service" shall mean those items included in the "electric plant in service" account prescribed by the federal power commission uniform system of accounts for electric utilities, and "material and supplies" shall mean those items included in the accounts grouped under the heading "material and supplies" in the said system of accounts.

(g) "Adjusted book value of property" or "adjusted book value of property owned by the board" shall mean the book value of property owned by the board excluding manufacturing machinery as interpreted by the Revenue Cabinet for franchise tax determination purposes.

(h) The "adjustment factor" shall be one hundred twenty-five percent (125%) for the tax year 1970. For each tax year thereafter, it shall be the duty of the Revenue Cabinet to compute the adjustment factor for that tax year as follows: For each five (5) percentage points or major fraction thereof by which the adjustment ratio for electric utility property for the immediately preceding tax year exceeded or was less than one hundred sixteen percent (116%), five (5) percentage points shall be added to or subtracted from one hundred twenty-five percent (125%). For the purposes of this computation, "adjustment ratio for electric utility property" shall mean the ratio of total assessed value to total property value for all public service corporations distributing electric energy to more than fifty thousand (50,000) retail electric customers within the state. "Total assessed value" shall mean the total actual cash value assigned by the Revenue Cabinet for ad valorem property tax purposes to the property of such corporations located within the state (properly adjusted for property under construction). "Total property value" shall mean the sum of:

1. The depreciated original cost of the total utility plant in service of such corporations within the state, and

2. The book value of material and supplies of such corporations located within the state, both as derived from published reports of the Federal Power Commission, or in the absence thereof, from information provided to the Revenue Cabinet by such corporations.

(i) "Electric operations" shall mean all activities associated with the establishment, development, administration, and operation of any electric system and the supplying of electric energy and associated services to the public, including without limitation the generation, purchase, sale, and resale of electric energy and the purchase, use, and consumption thereof by ultimate consumers.

(2) It shall be the duty of each board, on or before [~~April 29, 1970, and on or before~~] March 31 [~~of each succeeding tax year~~], to certify to the Revenue Cabinet the book value of property owned by the board and the adjusted book value of property owned by the board and located within the state and within each taxing jurisdiction in which the board operates. A copy of ***the*** [~~such~~] certification shall also be sent by the board to each such taxing jurisdiction. ***The*** [~~Said~~] book value of property and adjusted book value of property shall be determined, and the books and records of the board shall be kept in accordance with standard accounting practices, and the books and records of each board shall be subject to inspection by the Revenue Cabinet and by representatives of the affected taxing jurisdictions and to adjustment by the Revenue Cabinet if found not to comply with the provisions of this ***section*** [~~sentence~~]. Upon the receipt of the required certification from a board, the Revenue Cabinet shall make ***any*** [~~such~~] inspection and adjustment, hereinabove authorized, as it deems necessary, and no earlier than September 1 of each year the Revenue Cabinet shall certify to the board and to the county clerk of each county in which the board operates the book value of property owned by the board and the adjusted book value of property owned by the board, located within each taxing jurisdiction in which the board operates and within the state. At the same time, the Revenue Cabinet shall certify to the board and to the [~~said~~] county clerk the adjustment factor for the tax year. The [~~said~~] county clerk shall promptly certify the book value of property, the adjusted book value of property, and the adjustment factor certified by the Revenue Cabinet, to the respective taxing jurisdiction in which the board operates.

(3) (a) Each board shall pay for each tax year, beginning with the tax year 1970, to the state and to each taxing jurisdiction in which the board operates, a tax equivalent from the revenues derived from the board's electric operations for that tax year, computed according to this subsection.

(b) The tax equivalent for each tax year payable to the state shall be the total of:

1. The book value of the property owned by the board within the state, multiplied by the adjustment factor, multiplied by the current tax rate of the state, less thirty cents ($.30), plus

2. The state's portion of the amount payable under paragraph (d) of this subsection.

(c) The tax equivalent for each tax year payable to each taxing jurisdiction in which the board operates shall be the total of:

1. The adjusted book value of property owned by the board within the taxing jurisdiction, multiplied by the adjustment factor, multiplied by the current tax rate of the taxing jurisdiction; provided, however, for the purpose of this calculation the tax rate for school districts shall be increased by thirty cents ($.30), plus

2. The taxing jurisdiction's portion of the amount payable under paragraph (d) of this subsection.

(d) For purposes of this subsection, "amount payable" shall mean four-tenths of one per cent (.4%) of the book value of property owned by the board located within the state. The state shall be paid the same proportion of the amount payable as the payment to the state under subparagraph 1 of paragraph (b) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1 of paragraph (b) and subparagraph 1 of paragraph (c) of this subsection. Each taxing jurisdiction in which the board operates shall be paid the same proportion of the amount payable as the payment to the taxing jurisdiction under subparagraph 1 of paragraph (c) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1 of paragraph (b) and subparagraph 1 of paragraph (c) of this subsection. Under ***the*** [~~such~~] regulations [~~as~~] the Revenue Cabinet may prescribe, upon the board's receipt from the state and taxing jurisdictions of notice of the amount due under subparagraph 1 of paragraph (b) and subparagraph 1 of paragraph (c) of this subsection, the board shall compute the portion of the amount payable which is due the state and each taxing jurisdiction in which the board operates.

(e) Payment of the tax equivalent under this section for each tax year shall be made by each board to the state within thirty (30) days after receipt by the board of the certification from the Revenue Cabinet required by subsection (2) of this section and shall be made directly to each taxing jurisdiction in which the board operates within thirty (30) days from the date of the certifications by the county clerk required by subsection (2) of this section. The state and each taxing jurisdiction in which a board operates shall have a superior lien upon the proceeds of the sale of electric energy by that board for the amounts required by this section to be paid to it.

(4) Except as hereinafter provided the tax equivalents computed under this section shall be in lieu of all state, municipal, county, school district, special taxing district, other taxing district, and other state and local taxes or charges on the tangible and intangible property, the income, franchises, rights, and resources of every kind and description of any municipal electric system operating under KRS 96.550 to 96.900 and on the electric operations of any board established pursuant thereto, and the tax equivalent for any tax year computed and payable under this section to the state or to any taxing jurisdiction in which any board operates shall be reduced by the aggregate amount of any tax or charge within the meaning of this sentence which is imposed by the state, or by any taxing jurisdiction in which a board operates, on the board, the electric system, or the board's electric operations. Provided, however, that if any school district in which property of a board is located has elected, or does hereafter elect, to apply the utility gross receipts license tax for schools to all utility services as provided by KRS 160.613 through KRS 160.617, or as may hereafter be provided by other statutes, the amount of such utility gross receipts license tax shall not reduce, or in any manner affect, the amount payable to any such board or boards under the provisions of this section. It is the intent and purpose of this provision to eliminate all sums received by any such board or boards by reason of the utility gross receipts license tax from any computation of the amount payable under this section to any such board or boards, irrespective of the manner in which ***that*** [~~such~~] payment is computed, so that, in no event, shall any sum received by any school district by reason of the utility gross receipts license tax reduce, directly or indirectly, the amount payable to such district under this chapter. Provided, further, that if the state shall levy a statewide retail sales or use tax on electric power or energy, collected by retailers of ***the*** [~~such~~] energy from the vendees or users thereof, and imposed at the same rate or rates as are generally applicable to the sale or use of personal property or services, including natural or artificial gas, fuel oil, and coal as well as electric power or energy, ***the*** [~~such~~] retail sales or use tax shall not be deemed to be a tax or charge within the meaning of the first sentence of this subsection, and the tax equivalent payable for the tax year to the state under this section shall not be reduced on account of such retail sales or use tax.

(5) (a) Notwithstanding subsection (3) of this section, until the first tax year in which the total of:

1. The tax equivalent payable to the state, or to any taxing jurisdiction in which the board operates, computed under subsection (3) of this section, plus

2. The additional amounts permitted to be paid to the state or taxing jurisdiction without deduction under the second and third sentences of subsection (4) of this section, exceeds the minimum payment to the state or taxing jurisdiction specified in paragraph (b) of this subsection, the tax equivalent for each tax year payable to the state or taxing jurisdiction shall be an amount equal to the minimum payment computed under paragraph (b) of this subsection.

(b) For purposes of this subsection, the minimum payment to the state or to any taxing jurisdiction in which the board operates shall mean an amount equal to the total of:

1. The largest actual payment made by the board pursuant to KRS 96.820 to the state or to the taxing jurisdiction for any of the tax years 1964, 1965, or 1966, plus

2. The state's or taxing jurisdiction's pro rata share of an amount equal to four-tenths of one per cent (.4%) of the increase since July 1, 1964, in the book value of property owned by the board within the state. For the purposes of this paragraph "pro rata share" shall mean the same proportion of the amount computed under subparagraph 2. of this paragraph as the largest actual payment in lieu of taxes made by the board to the state or taxing jurisdiction for the applicable tax year under subparagraph 1. of this paragraph represents of the total amount of the largest actual payments in lieu of taxes made by the board to the state and to all taxing jurisdictions in which it operated for any of ***the*** [~~such~~] applicable tax years.

(c) The provisions of paragraph (e) of subsection (3) of this section shall apply to all payments required under this subsection.

(d) This subsection shall not be applicable for the first tax year specified in paragraph (a) of this subsection or for any tax year thereafter, except however, that tax year 1977 shall not be deemed as the "first tax year" as specified in paragraph (a) and this subsection shall continue to apply in such cases.

[~~(6) The General Assembly hereby recognizes that a dispute has arisen concerning the validity, terms, and effects of the amendments to KRS 96.820 in the 1968 regular session of the General Assembly and that this dispute has resulted in litigation concerning tax equivalents due for the tax years 1968 and 1969.~~

~~(7) The General Assembly hereby declares its intention that any taxing jurisdiction and any board, whether or not a party to such litigation, may enter into a binding compromise settlement agreement under which the board may pay and the taxing jurisdiction may accept in full discharge of the board's tax equivalent payment obligations for each of the tax years 1968 and 1969 such amount as they may agree upon, not less than the payment made by the board to the taxing jurisdiction for the tax year 1965, and not more than 120 per cent of the largest payment made by the board to the taxing jurisdiction for any one (1) of the tax years 1964, 1965, or 1966. All amounts heretofore paid for the tax years 1968 and 1969 by the respective boards shall be credited against and deducted from the amounts payable under any such agreements.~~]

Section 126. KRS 152A.280 is amended to read as follows:

In cooperation with the ***chief state school officer*** [~~superintendent of public instruction~~], the Council on Higher Education and the governing bodies of the state institutions of higher learning, the secretary shall, wherever feasible, make plans and provisions for extending the program established by KRS 152A.220 to 152A.280 into the regular courses of instruction in chemistry in the public high schools and junior colleges, and state universities and colleges.

Section 127. KRS 156.024 is amended to read as follows:

Prior to submission of the formal budgetary requests of the Department of Education, established in KRS 156.010, to the Governor and executive branch, complete copies of the budget areas in each board's jurisdiction shall be forwarded to the State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] to enable them to fully investigate and review ***the*** [~~said~~] requests and make recommendations to the Governor.

Section 128. KRS 156.035 is amended to read as follows:

(1) The Kentucky State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] are recognized to be public bodies corporate and politic, and agencies and instrumentalities of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under their control and supervision, the boards are authorized to implement the provisions of any act of Congress appropriating and apportioning funds to the state, to receive funds appropriated by the Kentucky General Assembly, to provide for the proper apportionment and disbursement of ***the*** [~~such~~] funds in accordance with state or federal laws, and to accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The boards are authorized to expend funds necessary for errors and omissions insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for ***the*** [~~such~~] insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this subsection shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the state boards of education, the Department of Education, or any of their respective officers, agents, or employees.

Section 129. KRS 156.060 is amended to read as follows:

For meetings of the State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~], a majority of the voting members shall constitute a quorum for the transaction of business. Each board shall meet not less than every three (3) months and at [~~such~~] other times [~~as~~] it may be called as provided in this section. Special meetings of each board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of the written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The offices of each board shall be at the seat of government in the Department of Education and shall be provided by the state. Members of the board may receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for each board.

Section 130. KRS 156.076 is amended to read as follows:

The ***chief state school officer*** [~~Superintendent of Public Instruction~~] shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the Division of Purchases. Any board of education, after advertising for bids, may award contracts if the ***chief state school officer*** [~~Superintendent of Public Instruction~~] certifies that ***the*** [~~such a~~] bid offers supplies and equipment which meet the standards and specifications fixed by the State Board for Elementary and Secondary Education and that the bid price is lower than that established by the price contract agreement.

Section 131. KRS 156.101 is amended to read as follows:

(1) The purpose of this section is to encourage and require the maintenance and development of effective instructional leadership in the public schools of the Commonwealth and to recognize that principals with the assistance of assistant principals, supervisors of instruction, guidance counselors, and directors of special education have the primary responsibility for instructional leadership in the schools to which they are assigned.

(2) For the purpose of this section, instructional leader shall be defined as an employee of the public schools of the Commonwealth holding a valid certificate as a principal, assistant principal, supervisor of instruction, guidance counselor or director of special education.

(3) In order to carry out the purpose of this section, the State Board for Elementary and Secondary Education shall establish a statewide program to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth.

(4) The instructional leader improvement program shall contain the following provisions:

(a) [~~Effective July 14, 1984,~~] Each instructional leader employed by the public schools of the Commonwealth shall participate in a continuing intensive training program designed especially for instructional leaders;

(b) Every two (2) years each instructional leader shall complete an intensive training program approved by the State Board for Elementary and Secondary Education to include no less than forty-two (42) participant hours of instruction;

(c) The State Board for Elementary and Secondary Education shall prescribe specific criteria for the training program and may contract for the training with qualified agencies or institutions; and

(d) Completion of the required participant hours shall be reported to the state Department of Education and to the local school district. If an instructional leader fails to complete the required hours of training, he shall be placed on probation for one (1) year and, if the training is not completed during the probationary period, his certificate ***shall*** [~~will~~] be revoked.

(5) As a means of improving the educational productivity of Kentucky's public schools, of providing a method by which the citizens of the Commonwealth can be assured of measures of accountability of the performance of certified school employees, and of providing encouragement and incentives for certified school employees to improve their performance, the State Board for Elementary and Secondary Education shall establish a statewide program for improving the performance of all certified school personnel, including instructional leaders.

(6) The certified employee evaluation programs shall contain the following provisions:

(a) [~~Effective January 1, 1985,~~] Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the State Board for Elementary and Secondary Education;

(b) The local school district shall annually review the evaluation plan to insure compliance with this section. Revisions to the evaluation plan shall be approved by the State Board for Elementary and Secondary Education; and

(c) The State Board for Elementary and Secondary Education shall develop written guidelines for local school districts to follow in developing and implementing an evaluation system and shall require the following:

1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;

2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator;

3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;

4. Evaluation shall include a conference between the evaluator and the person evaluated;

5. Evaluators shall be trained, tested, and certified in accordance with regulations adopted by the State Board for Elementary and Secondary Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;

6. The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator; and

7. The training requirement for evaluators contained in subsection (6)(c)5. of this section shall not apply to district board of education members.

(7) The state Department of Education shall regularly, and at least yearly, visit every school district within the Commonwealth to review and insure implementation of the evaluation system by the local school district. The department shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.

(8) The state Department of Education shall select and train evaluators from outside each local school district to conduct annual evaluations of a sample of certified school employees within each district in order to validate the effectiveness and accuracy of the local school districts' evaluators.

(9) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section except for ***subsection*** [~~subsections~~] (10) [~~and (11)~~] of this section provided they meet the standards established by the State Board for Elementary and Secondary Education for local school district evaluation systems.

[~~(10) During the 1987-88 school year the sum of three hundred dollars ($300) shall be paid to each non-administrative certified person with a demonstrated record of effectiveness determined by successfully completing the evaluation process. Successful completion means an evaluation which is not unsatisfactory.~~]

***(10)***[~~(11)~~] The local board of education shall establish an evaluation appeals panel for certified personnel which shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who ***think*** [~~feel that~~] they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation.

***(11)***[~~(12)~~] This section shall be known as the "Effective Instructional Leadership Act."

Section 132. KRS 156.138 is amended to read as follows:

The Attorney General, upon the written recommendation of either the Governor, the Auditor of Public Accounts, the ***chief state school officer*** [~~Superintendent of Public Instruction~~] or the State Board for Elementary and Secondary Education, shall institute the necessary actions to recover school funds, from any source, which he believes have been erroneously or improperly allowed or paid to any person.

Section 133. KRS 156.142 is amended to read as follows:

***In*** [~~The jurisdiction of~~] all actions brought under the provisions of KRS 156.132 to 156.138, ***jurisdiction*** shall be vested in the Circuit Court of the county in which the school district is located.

Section 134. KRS 156.152 is amended to read as follows:

The ***chief state school officer*** [~~Superintendent of Public Instruction~~], as executive officer of the State Board for Elementary and Secondary Education, upon application and requisition to the Finance and Administration Cabinet, is hereby authorized and directed to secure price contract agreements for the purchase of school buses by all district boards of education. The Finance and Administration Cabinet shall enter into price contract agreements under established purchasing procedure in keeping with the law relating to state purchasing. The price contract agreement shall establish sources of supply, maximum prices to be paid and shall set forth the length of time for which contracts shall be valid.

Section 135. KRS 156.154 is amended to read as follows:

The ***chief state school officer*** [~~Superintendent of Public Instruction~~] shall make available to all district boards of education full information respecting established price contract agreements, and any or all districts may procure buses from sources and at prices, terms and conditions incorporated in ***the*** [~~said~~] price contract agreements. Any district board of education may take its own bids on school buses which meet the specifications of the State Board for Elementary and Secondary Education for school buses for which price contracts have been established, provided the ***chief state school officer*** [~~Superintendent of Public Instruction~~] approves the bids and purchase contract as meeting specifications of the State Board for Elementary and Secondary Education. However, no district board of education shall purchase school buses under the terms of this section unless the ***chief state school officer*** [~~Superintendent of Public Instruction~~] shall certify that the purchase price is lower than prices set forth in established price contract agreements for similar equipment.

Section 136. KRS 156.190 is amended to read as follows:

The ***chief state school officer*** [~~Superintendent of Public Instruction~~] may call and conduct conferences of boards of education, superintendents, supervisors, principals, teachers, attendance officers and other regular public school employees, on matters relating to the condition, need and improvement of the schools. Personal traveling expenses incurred by those attending conferences called by the ***chief state school officer*** [~~Sperintendent of Public Instruction~~] shall be a legitimate public expense and may be paid by boards of education.

Section 137. KRS 156.200 is amended to read as follows:

The ***chief state school officer*** [~~Superintendent of Public Instruction~~] shall receive and examine all reports required by law or by the State Board for Elementary and Secondary Education and, in person or through his assistants, shall examine and advise on the expenditures, business methods and accounts of all boards of education and all institutions placed under the management and control of the Department of Education as established in KRS 156.010. He shall see that all financial and educational accounts are accurately and neatly kept and that all reports are made according to the forms adopted by the State Board for Elementary and Secondary Education.

Section 138. KRS 156.210 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall have access to the papers, books and records of all teachers, trustees, superintendents or other public school officials.

(2) He may administer oaths[~~,~~] and may examine witnesses under oath in any part of the state in any matter pertaining to the public schools, and may cause the testimony to be reduced to writing. He may issue process to compel attendance of witnesses before him and compel witnesses to testify in any investigation he is authorized to make.

(3) When he or his assistants find any mismanagement, misconduct, violation of law or wrongful or improper use of any district or state school fund, or neglect in the performance of duty on the part of any official, he shall report the same, and any other violation of the school laws discovered by him, to the State Board for Elementary and Secondary Education, ***which*** [~~who~~] shall, through the ***chief state school officer*** [~~superintendent of public instruction~~] or one (1) of his assistants, call in the county attorney or the commonwealth's attorney in the county or district where the violation occurs, and the attorney so called in shall assist in the indictment, prosecution and conviction of the accused. If prosecution is not warrantable, the State Board for Elementary and Secondary Education may rectify and regulate all such matters.

Section 139. KRS 156.230 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall annually prepare or cause to be prepared, and submit for approval and publication by the State Board for Elementary and Secondary Education, a list of all public and private high schools or other secondary schools in the state, showing the classification of each.

(2) He shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Elementary and Secondary Education or the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~], ***any*** [~~such~~] bulletins, programs, outlines of courses, placards, and courses of study as he deems useful in the promotion of the interests of the public schools, vocational education and vocational rehabilitation.

(3) He shall also prepare for publication the administrative regulations, minimum standards for schools and educational policies or programs adopted by the boards for the operation, regulation and government of the schools under their supervision.

Section 140. KRS 156.240 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~] shall prepare for publication biennially, the complete school laws of the state, including abstracts of decisions of the court of justice, and opinions and interpretations of the Attorney General and the ***chief state school officer*** [~~superintendent of public instruction~~]. He shall explain the true intent and meaning of the school laws and the published administrative regulations of the State Board for Elementary and Secondary Education and the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services,~~] and in doing so he shall freely consult the Attorney General.

Section 141. KRS 156.250 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall biennially prepare the report of the Department of Education as established in KRS 156.010 to be submitted to the Governor and the General Assembly. The report shall set out the number attending the public schools, the amount of state funds apportioned and the source from which derived, the amount raised by county school and independent school district taxes or from other sources of revenue for school purposes, the amount expended for salaries of teachers, for the erection of school buildings, and for incidental and other expenses in the operation of the public schools under his supervision, together with ***any*** [~~such~~] other facts, statistics and information as may be deemed of interest, including recommendations for the improvement of the schools.

(2) The report shall also detail programs and progress in vocational education and vocational rehabilitation.

Section 142. KRS 156.253 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] may enter into agreement to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~] at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45.360 and 45.700 to 45.720 when awarded on the basis of a detailed training plan approved by the ***chief state school officer*** [~~superintendent of public instruction~~]. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The ***chief state school officer*** [~~superintendent of public instruction~~] may approve authorization for

the Department of Education to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 143. KRS 156.255 is amended to read as follows:

As used in KRS 156.255 to 156.295:

(1) "Accountant" means a certified public accountant or a public accountant registered with the State Board of Accountancy.[~~;~~]

(2) "Board" means the board of education of a school district.[~~;~~]

(3) "Committee" means the State Committee for School District Audits.[~~;~~]

(4) "State board" means the State Board for Elementary and Secondary Education.

Section 144. KRS 156.265 is amended to read as follows:

(1) There shall be a State Committee for School District Audits comprised of the Governor, or a person designated by him, the Attorney General, a person designated by the secretary of the Finance and Administration Cabinet and the ***chief state school officer*** [~~superintendent of public instruction~~]. The Governor, or the person designated by him, shall be the chairman of the committee.

(2) The committee shall have the accounts of each board audited not less than once every two (2) fiscal years. The committee also may, at any time, cause to be made a comprehensive and complete audit of any board. Upon the written request of the state board, the ***chief state school officer*** [~~superintendent of public instruction~~], the Attorney General, the Auditor of Public Accounts, [~~or~~] the Governor, ***or the Office of Education Accountability*** the committee may cause the accounts of a board to be audited. Each audit shall cover such period of time, and shall include such auditing procedures and standards, as the committee may designate.

(3) Audits authorized under this section are in addition to any audits contemplated under KRS 11.090, 156.200 or KRS chapter 43.

(4) The actual expense of any audit authorized under this section shall be borne equally by the district board of education and by the committee from funds allocated to it.

Section 145. KRS 156.275 is amended to read as follows:

(1) The committee shall select, to make the audit authorized under KRS 156.265, accountants who have no personal interest in the financial affairs of the board or of any of its officers or employees.

(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations in such form and in such detail as the committee may prescribe. The report shall be to the committee and in such number of copies as specified by the committee. The committee shall furnish one (1) copy to the State Board for Elementary and Secondary Education, one (1) copy to the district board of education to which the report pertains, one (1) copy to the ***chief state school officer*** [~~superintendent of public instruction~~] and one (1) copy to the Auditor of Public Accounts. The district board of education shall keep a copy of the report on file in the office of the superintendent of schools of the district and the report shall be open to inspection by any interested person subject to reasonable rules as to time and place of inspection.

Section 146. KRS 156.400 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall arrange the elementary and secondary school subjects included in the state courses of study as prescribed by the State Board for Elementary and Secondary Education into six (6) adoption groups.

(2) Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one group being up for adoption each year. The six (6) adoption groups shall be arranged as nearly equal in number and purchase cost as possible. Subjects with rapidly changing or highly technical content may be considered more frequently than once during a six (6) year cycle.

(3) The ***chief state school officer*** [~~superintendent of public instruction~~] may delay the purchase of books due to insufficient funds, but purchases of books shall be from the current multiple list.

Section 147. KRS 156.405 is amended to read as follows:

(1) The purpose of the State Textbook Commission is to provide a list of current and high quality textbooks to local school districts, which complement the educational program in Kentucky schools and to provide for public participation in the adoption process.

(2) The State Textbook Commission shall consist of the ***chief state school officer*** [~~superintendent of public instruction~~] and ten (10) appointive members. The ten (10) members shall be appointed by the State Board for Elementary and Secondary Education upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~] for terms of four (4) years with two (2) appointments each year, except that every fourth year there shall be four (4) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms. The State Textbook Commission shall receive assistance in the textbook selection process from professionals and lay citizens who will serve on a contractual basis and be referred to in this chapter as the "textbook reviewers".

(3) The State Textbook Commission shall:

(a) Select and direct the activities of the textbook reviewers who develop selection criteria and review textbooks and programs;

(b) Develop selection criteria and evaluation forms with the help of the textbook reviewers to be used in the state level selection process;

(c) Approve the evaluative criteria and forms used by the commission and textbook reviewers;

(d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a list of high quality books;

(e) Select, approve and publish a list of high quality textbooks.

(4) The textbook reviewers shall be comprised of twelve (12) individuals for the area or areas being considered for adoption. The textbook reviewers shall be approved by the State Textbook Commission based on the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~].

(5) The textbook reviewers shall:

(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks;

(b) Review textbooks and programs to determine those of high quality using evaluative criteria and forms approved by the commission;

(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs; and,

(d) Attend meetings and training sessions as requested by the commission and the Department of Education.

(6) Eight (8) of the appointive members of the State Textbook Commission shall have had not less than five (5) years teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher education. Two (2) members shall be lay citizens. In recommending the members of the State Textbook Commission the ***chief state school officer*** [~~superintendent of public instruction~~] shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment.

(7) Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels K-12, with experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks. Three (3) reviewers shall be parents of children currently enrolled in public schools in Kentucky.

(8) Members of the State Textbook Commission shall receive fifty ($50) dollars per day and reimbursement for their actual expenses while attending commission meetings. Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the ***chief state school officer*** [~~superintendent of public instruction~~]. Textbook reviewers shall be hired through a personal service contract and remuneration shall not exceed a maximum of seven-hundred and fifty ($750) dollars annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer or commission meetings.

(9) The meetings of the State Textbook Commission shall be open to the public and shall be held at least once every quarter and notice of such meeting shall be given in accordance with KRS 424.110 to 424.210.

(10) Not later than May 1 each year the ***chief state school officer*** [~~superintendent of public instruction~~] shall call the State Textbook Commission into session. The members of the State Textbook Commission shall elect one (1) of its members as chairman and shall adopt ***administrative*** [~~rules and~~] regulations for the procedure of the commission. The ***chief state school officer*** [~~superintendent of public instruction~~] shall be the secretary of the commission.

Section 148. KRS 156.407 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall, not later than February 1 of each year in which an adoption is to be made, solicit applications for filling twelve (12) positions in each subject area for textbook reviewers;

(2) Solicitation shall be statewide and include specifications which ensure candidates have professional expertise in the subject areas to be reviewed or are parents of children currently enrolled in public schools in Kentucky;

(3) The ***State*** Textbook Commission, at its first yearly meeting, shall select textbook reviewers based on a list of qualified applicants prepared by the ***chief state school officer*** [~~superintendent of public instruction~~] and giving consideration to his recommendations as specified in KRS 156.405;

(4) The contracts for the textbook reviewers shall extend until the review of textbooks for a given year is completed, but no later than October 15.

(5) The Department of Education's curriculum and instruction specialists shall serve as staff to the commission and reviewers. The staff shall:

(a) Orient and train the commission and reviewers regarding departmental policy and selection procedures;

(b) Make available existing standards and criteria for textbook selection; and

(c) Provide supplies and sample textbooks for the review process.

(6) The textbook reviewers shall develop subject specific criteria for textbook review and evaluation in the following textbook areas:

(a) Subject content;

(b) Audience;

(c) Format;

(d) Readability; and

(e) Ancillary materials.

On or before July 15, the ***State*** Textbook Commission shall develop general criteria, review and approve subject specific criteria and provide the standard criteria and evaluation forms to be used by the commission and textbook reviewers.

(7) Based upon approval of the standard criteria and evaluation forms, the textbook reviewers shall review textbooks and programs. The committee shall submit evaluation forms rating each textbook or program reviewed in each of the five (5) areas, set forth in subsection (6) of this section, with comments related to strengths and weaknesses in each area.

(8) The ***State*** Textbook Commission shall review the work of the textbook reviewers and based on this review and any of its own reviews of textbooks or programs, select books for the state multiple list of textbooks. Copies of all evaluation forms submitted by the textbook reviewers shall be made available to commission members and maintained on file within the Department of Education for the cycle length of the books. For

those textbooks placed on the state multiple list of textbooks, summary results of the evaluations shall be provided to the local school districts.

Section 149. KRS 156.410 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall prepare minimum manufacturing standards, delineate content specifications, in accordance with the curriculum requirements of the program of studies for Kentucky schools: grades K-12, construct score cards, and formulate other criteria for use in the selection and adoption of textbooks in Kentucky. ***Criteria shall require that textbooks include the significance of the diverse ethnic contributors to society.***

(2) It shall be the duty of the ***chief state school officer*** [~~superintendent of public instruction~~] to prepare all necessary forms for use in the selection and adoption of textbooks, such as advertising for textbook bids, forms for bids, bonds and contracts, and other forms.

(3) The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall have authority to prescribe:

(a) [~~Rules and~~] Administrative regulations pertaining to all textbook samples for use on the state and local levels; and

(b) Shall have authority to prescribe [~~rules and~~] administrative regulations relating to the agents and representatives of textbooks as to the number participating and the methods and procedures for use in textbook adoptions on the state and local levels.

(4) The ***chief state school officer*** [~~superintendent of public instruction~~], on or before May 1 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the ***textbooks*** [~~same~~]. The publishers, on or before July 15, of any adoption year, shall file with the ***chief state school officer*** [~~superintendent of public instruction~~] textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

(5) The ***chief state school officer*** [~~superintendent of public instruction~~] shall:

(a) Review the bid information submitted by the publishers;

(b) Verify that the bid complies with the specifications; and

(c) Prepare a list of textbooks for consideration by the State Textbook Commission indicating those in compliance with the standards and specifications and those not in compliance, detailing areas of noncompliance.

Section 150. KRS 156.415 is amended to read as follows:

Before textbooks offered for adoption and use in public schools of Kentucky may be lawfully approved and listed by the State Textbook Commission or purchased by any board of education, the person, firm or corporation offering the books for adoption and use shall file with the ***chief state school officer*** [~~superintendent of public instruction~~]:

(1) Copies of all textbooks that the person, firm or corporation desires to offer for adoption and use, with a sworn statement of the list price, the lowest wholesale price and the lowest exchange price if required by the ***State*** [~~Kentucky~~] Textbook Commission at which each of the books is sold in any adopting unit;

(2) A statement that all the books offered for sale, adoption, use and exchange do comply with the standards and specifications for textbooks designated by the ***chief state school officer*** [~~superintendent of public instruction~~] as regards paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

(3) Copies of any revision or special editions of the textbooks filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price, the lowest wholesale price and the lowest exchange price at which the revision or special edition is sold anywhere in the United States;

(4) A fee of five dollars ($5.00) for each book filed except when a series of books is filed, in which case the fee shall be five dollars ($5.00) for the first book and one dollar ($1.00) for each additional book in the series. The fee provided by this subsection shall be paid at each and every adoption period;

(5) A bond running to the Commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), to be determined by the ***chief state school officer*** [~~superintendent of public instruction~~].

Section 151. KRS 156.420 is amended to read as follows:

The bond required by the person, firm or corporation offering the books for adoption shall be so conditioned that:

(1) The person, firm or corporation will furnish any of the books listed in the statement filed for the period of adoption from the date of the bond to any school district in Kentucky, or to any dealer appointed by the district, at the lowest wholesale price contained in the statement, f.o.b. the publisher's nearest shipping point;

(2) The person, firm or corporation shall not bid and enter into a contract for an adoption period with the Commonwealth of Kentucky for books at a higher wholesale price than is being bid for the same adoption period elsewhere in the United States.

(3) The person, firm or corporation will automatically reduce such prices in Kentucky whenever reductions are made anywhere in the United States, so that no [~~such~~] book shall at any time be sold in Kentucky at a higher wholesale price than is received for that book elsewhere in the United States;

(4) If the person, firm or corporation prepared an abridged or special edition of any book that has been listed and sells it elsewhere at a lower wholesale price than the wholesale price set out in the filed statement, the person will file a copy of the special edition with the price ***of the special edition*** [~~thereof~~] in a supplemental statement with the ***chief state school officer*** [~~superintendent of public instruction~~];

(5) All books sold in Kentucky will be identical with the specimen books filed with the ***chief state school officer*** [~~superintendent of public instruction~~] as regards size, paper, binding, print, illustrations, subject matter, and other particulars which may affect the value of the books;

(6) The person, firm, or corporation ***shall*** [~~will~~] not enter into any agreement, understanding or combination to control the price of textbooks or to restrict competition in their sale in Kentucky.

Section 152. KRS 156.425 is amended to read as follows:

The form of the sworn statement and bond required shall be prescribed by the ***chief state school officer*** [~~superintendent of public instruction~~]. The bond shall be in force for the adoption period. The person, firm, or corporation may at any time while the bond is in force file a supplemental statement covering additional books or special editions of books previously filed. The supplemental statement shall expire at the date of expiration of the original statement and bond. Prior to the expiration of any statement and bond the person may file a new statement and bond for a further period of adoption, and if he fails to ***file a new statement and bond*** [~~do so~~] his right to offer textbooks for adoption and use in the public schools of Kentucky shall expire on the date of expiration of the former bond.

Section 153. KRS 156.430 is amended to read as follows:

The superintendent of schools of each school district shall notify the ***chief state school officer*** [~~superintendent of public instruction~~] of any violation of any of the conditions in any bond ***which has been*** [~~so~~] filed. If the ***chief state school officer*** [~~superintendent of public instruction~~] finds that a violation has occurred, he shall instruct the Attorney General to bring suit on the bond. Any sum recovered in such suit shall be paid into the State Treasury.

Section 154. KRS 156.435 is amended to read as follows:

(1) The State Textbook Commission shall, not later than September 20 of any year in which an adoption is to be made, select, approve, and publish a list of books or programs in each subject and grade, taking into account the needs of the various types of students, indicating the student functioning level for which the textbook or program is appropriate.

(2) The State Textbook Commission shall have the authority to reject any book which:

(a) Contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, provided the publisher of ***the*** [~~such a~~] book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list;

(b) Is in noncompliance with standards and specifications set forth in KRS 156.410; or

(c) Is not of high quality in terms of the content provided, the audience addressed, the format used, the readability of material or the ancillary materials provided the teacher and students.

(3) The State Textbook Commission shall have the authority to add books to the state list when the list does not contain books for subjects added to the state courses of study.

(4) The ***chief state school officer*** [~~superintendent of public instruction~~] shall make and execute contracts for the selected books with the publishers on or before January 1 following the approval of the books selected by the commission. Except as described [~~heretofore~~] in KRS 156.400, all contracts shall run for six (6) years.

(5) The State Textbook Commission, on or before May 1, shall designate books or programs on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 15.

(6) The ***chief state school officer*** [~~superintendent of public instruction~~] shall prepare a multiple list of the selected books or programs and publish ***the list*** [~~same~~] and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.

Section 155. KRS 156.437 is amended to read as follows:

The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall have the authority to prescribe ***administrative*** [~~rules and~~] regulations for the listing by the State Textbook Commission, adoption by local adoption units, and the purchase of subject programs for the pupils in the public schools.

Section 156. KRS 156.440 is amended to read as follows:

(1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their books that were selected and placed on the state multiple list of textbooks by the ***State*** Textbook Commission.

(2) Unless otherwise provided by the General Assembly in a budget bill, the board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select from the state multiple list books or programs for each subject and grade to be used as a basal text, in its school system for a period of six (6) years and any extensions thereof.

(3) County and[~~/or~~] independent school [~~district or~~] districts, however, may decline to make textbook adoptions. [~~Such~~] A school district or districts that decline or fail to make textbook adoptions on or before April 15 shall use the books or programs on the state multiple list designated by the State Textbook Commission for each subject and grade for the adoption period.

(4) After the local board of education has adopted the basal textbooks for use of the district and not later than April 20, the superintendent of schools shall send to the ***chief state school officer*** [~~superintendent of public instruction~~] a complete list of books adopted properly certified by the chairman and secretary of the board of education.

Section 157. KRS 156.447 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], may authorize school districts to select and use supplementary textbooks, print and audio-visual media materials and audio-visual equipment other than those selected and listed by the State Textbook Commission and adopted by adoption units.

(2) Pending General Assembly appropriation, the ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education and in accordance with documented district needs, shall make available each year a percentage of the elementary school textbook appropriation and a percentage of the high school textbook appropriation for the optional purchase of supplementary textbooks, print and non-print media materials, and audio-visual equipment needed to utilize the audio-visual materials being purchased.

(3) Local school districts may purchase supplementary textbooks, media materials, and audio-visual equipment in accordance with ***administrative*** regulations adopted by the State Board for Elementary and Secondary Education upon the recommendation of the state ***chief state school officer*** [~~superintendent of public instruction~~].

(4) ***Administrative*** regulations relating to the purchase of media materials, audio-visual equipment and all other instructional materials and supplies by local school districts shall contain the following requirements:

(a) Items to be purchased should be identified as consumable or non-consumable;

(b) Each local school district shall establish a per pupil allocation of funds to purchase equipment, materials and supplies, and of this allocation a portion shall be for consumable items and the remainder for non-consumable items;

(c) Local school districts may use all or a portion of student fees as part of the per pupil allocation of funds to purchase instructional equipment, materials, and supplies;

(d) Each local school district shall survey teachers to determine their needs for instructional equipment, materials, and supplies. The local district board of education shall take into consideration the survey of teacher needs in the purchase of instructional equipment, materials, and supplies; and

(e) A financial report on allocations to and expenditures for instructional equipment, materials, and supplies shall be prepared annually by the school district and shall be a public record.

Section 158. KRS 156.450 is amended to read as follows:

If sufficient state funds are not available for the ***chief state school officer*** [~~superintendent of public instruction~~] to purchase textbooks for all public school grades pursuant to KRS 157.100, each board of education may appoint one (1) or more dealers to act as official retail agents for the sale of books for use in the school district, or any school unit may purchase and distribute books to its own patrons. Persons whose books have been adopted under these provisions shall furnish the books, either through the official retail agents or through respective boards of education, at the lowest wholesale price and the lowest exchange price listed with the ***chief state school officer***.[~~superintendent of public instruction~~] f.o.b. the publisher's nearest shipping point. Each official retail agent shall give a reasonable bond, if required, to the persons who have contracts to furnish adopted texts. All orders given by the retail agent or board of education shall be promptly filled. The official retail agent shall sell the books at not more than twenty per cent (20%) in excess of the listed wholesale price. Where old books, displaced by new adoption, are offered by pupils in exchange for the corresponding new books, the new books shall be offered at a price not more than twenty per cent (20%) in excess of the listed exchange price. If any agent violates the requirements of this section, or fails to give reasonable bond requested by any person who has a contract to furnish adopted texts, the board of education that appointed the agent may, by giving notice prior to May 1 in any year, revoke the appointment on July 1 of that year. When an agent's permit is revoked or terminated, all textbooks as per inventory of the agent must be paid for at wholesale price by the person from whom the textbooks were purchased, if the textbooks are of the lawful adoption.

Section 159. KRS 156.455 is amended to read as follows:

When a pupil ***moves*** [~~removes~~] from any school district, the board of education of the district, shall, if requested, purchase from the pupil any state-adopted textbooks that have been purchased by the pupil and are in actual use by him at the time. The price shall be based upon the condition of the books. The books may be sold by the board of education, or furnished to indigent children in the district.

Section 160. KRS 156.460 is amended to read as follows:

No superintendent, teacher, or other official or employee of any institution supported wholly or in part by public funds shall act, [~~either~~] directly or indirectly, as agent for any person whose school textbooks are filed with the ***chief state school officer*** [~~superintendent of public instruction~~].

Section 161. KRS 156.465 is amended to read as follows:

No person shall secure or attempt to secure the adoption of any school textbook in any school district in this state, by rewarding or promising to reward, directly or indirectly, any person in any public school ***district*** in the state. No person shall offer or give any emolument to any person in any school district ***in this state*** for any vote or promise to vote, or the use of his influence, for any school textbook to be used in this state.

Section 162. KRS 156.470 is amended to read as follows:

A copy of each textbook listed by the State Textbook Commission shall remain in the office of the ***chief state school officer*** [~~superintendent of public instruction~~] as an official sample for the period of the adoption. After the adoption period such samples shall be sold by the State Board for Elementary and Secondary Education.

Section 163. KRS 156.472 is amended to read as follows:

All ***administrative*** regulations of the State Board for Elementary and Secondary Education and the statutory laws, which are applicable to textbook adoptions, purchases and distribution by the county and independent school districts, shall apply to textbook adoptions, purchases and distributions for the state college and university model and practice schools.

Section 164. KRS 156.474 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall have the authority to prescribe the conditions whereby a school district may make multiple textbook adoptions for the different school subjects by grades.

(2) The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall have the authority to prescribe the ***administrative*** [~~rules and~~] regulations to govern the purchase of the multiple-adopted textbooks for the school district. The ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, may purchase the textbooks from the publishers whose books have been adopted by the school district for grades kindergarten through twelve (12) and distribute them without cost to the pupils attending the public schools in the school district.

Section 165. KRS 156.475 is amended to read as follows:

KRS 156.405, 156.447, 156.474, 157.100, and 157.110 may be cited as "The Rattliff-Ward Textbook Act of 1976."

Section 166. KRS 156.476 is amended to read as follows:

The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], may select suitable textbooks, which include braille textbooks, and other materials printed in clear type of eighteen (18) to twenty-four (24) points in the different subject areas for children with impaired vision who are attending the public schools of the Commonwealth of Kentucky in grades kindergarten through twelve (12). Such textbooks and materials shall not be subject to the official textbook bids, filing fees, textbook sampling, and the stipulated list prices, lowest wholesale prices, exchange prices, and the standards and specifications required for the textbooks approved and listed by the State Textbook Commission for regular use by the pupils attending the public schools of the state of Kentucky. The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall have the authority to prescribe ***administrative*** [~~rules and~~] regulations for determining the pupils eligible for such books, the number of books to be purchased, and the general administration of the program. The ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, may purchase these books and distribute them without cost to the pupils with impaired vision attending the public schools of the state. All textbooks purchased under this section for the pupils with impaired vision are the property of the state.

Section 167. KRS 156.483 is amended to read as follows:

(1) The state Department of Education shall not employ, in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime [~~as~~] defined in KRS 17.165 [~~which is classified~~] as a felony. The Department of Education may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor. The Department of Education shall request all conviction information for any applicant for employment from the Justice Cabinet prior to employing the applicant.

(2) Each application form, provided by the Department of Education to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(3) Any request for records under subsection (1) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(4) The provisions of this section shall apply ***after July 15, 1988,*** to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor [~~after July 15, 1988~~].

Section 168. KRS 156.485 is amended to read as follows:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5.00) fee may be assessed by the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~Vocational-Technical, Adult Education and Vocational Rehabilitation Services~~] for the issuance of a duplicate GED high school equivalency certificate. All fees collected for duplicate certificates shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's Commission on Educational Credit and Credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;

(c) Staff shall be employed and trained by the Department of Education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED, high school equivalency examination; and

(d) Essay readers will be assigned to the ***Department*** [~~Division~~] of [~~Adult~~] Education to score essays daily.

Section 169. KRS 156.990 is amended to read as follows:

(1) Any witness who fails, without legal excuse, to attend or to testify, when required by the ***chief state school officer*** [~~Superintendent of Public Instruction~~] under these provisions, shall be fined not more than twenty-five dollars ($25.00) for each offense.

(2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be fined not more than five hundred dollars ($500) or imprisoned not more than three (3) months, or both.

(3) A violation of subsection (1) of KRS 156.483 shall cause the Department of Education to be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 170. KRS 157.060 is amended to read as follows:

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the State Board for Elementary and Secondary Education or the ***State Board for Adult, Vocational Education and Vocational Rehabilitation*** [~~state board for vocational-technical, adult education and vocational rehabilitation services~~] at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

Section 171. KRS 157.100 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, shall purchase textbooks from the publishers whose books have been adopted by the state Textbook Commission and may purchase from any publisher other related media not approved by the state Textbook Commission and distribute them without cost to pupils attending grades kindergarten through twelve (12)[~~,~~] of the public schools of the state, in the manner and upon the conditions set out in KRS 156.447, 157.110 and 157.180.

Section 172. KRS 157.110 is amended to read as follows:

(1) In the purchase and distribution of textbooks for grades nine (9) through twelve (12), if sufficient funds are not available to furnish textbooks for all four (4) grades, the ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, shall determine for what grades and subjects textbooks shall be provided.

(2) Local school districts, which do not provide a free textbook program for all students in grades nine (9) through twelve (12), shall establish, pursuant to State Board for Elementary and Secondary Education administrative regulations, a process whereby pupils in grades nine (9) through twelve (12) may rent textbooks for a reasonable fee. Rental fees collected by the district shall be used for the maintenance of textbooks, the purchase of new textbooks, and the provision of free textbooks to pupils in grades nine (9) through twelve (12) who are unable to rent or purchase textbooks.

(3) No pupil shall be denied the use of textbooks due to an inability to rent or purchase them. Local school districts shall establish, pursuant to State Board for Elementary and Secondary Education administrative regulations, a process by which to provide free textbooks to pupils unable to rent or purchase them, including a process by which ***those*** [~~such~~] students shall be informed of the availability of, and guidelines and procedures for, obtaining free textbooks.

(4) The State Board for Elementary and Secondary Education shall adopt administrative regulations

to insure the availability of free textbooks to those pupils in grades nine (9) through twelve (12) who are unable to rent or purchase textbooks and shall use the guidelines of the free and reduced price lunch programs to determine inability to rent or purchase textbooks. The regulations shall also provide for exceptional circumstances, under which pupils who do not meet free and reduced price lunch guidelines may be provided free textbooks.

Section 173. KRS 157.120 is amended to read as follows:

Purchases of books shall be upon requisitions of school superintendents. The ***chief state school officer*** [~~superintendent of public instruction~~] shall prepare or cause to be prepared requisition forms on which each school superintendent shall requisition the books needed for the next ensuing school term in his district. The requisition shall be filed with the ***chief state school officer*** [~~superintendent of public instruction~~]. The ***chief state school officer*** [~~superintendent of public instruction~~], under the direction of the State Board for Elementary and Secondary Education, shall order from the various publishers the textbooks that have been requisitioned. The textbooks shall be shipped by the publisher, by prepaid freight, express or parcel post, as directed by the ***chief state school officer*** [~~superintendent of public instruction~~], direct to the school superintendent. The publishers shall issue invoices in triplicate and mail ***the invoices directly*** [~~same direct~~] to the ***chief state school officer*** [~~superintendent of public instruction~~]. Upon receipt of the books the school superintendent shall check the shipment against the departmental purchase order forms and send verified departmental purchase order forms to the ***chief state school officer*** [~~superintendent of public instruction~~] as a receipt for the shipment. The State Board for Elementary and Secondary Education may then order payment.

Section 174. KRS 157.130 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~] shall, subject to the approval of the State Board for Elementary and Secondary Education, make rules and regulations governing the purchase, requisition, distribution, assignment to pupils, care, use and return of textbooks and a plan for permanently labeling the textbooks as the property of the state.

Section 175. KRS 157.140 is amended to read as follows:

Each pupil, or his parent or guardian, shall be responsible to the teacher for all books not returned by the pupil, and a pupil not returning all books delivered to him shall not be entitled to the benefits of KRS 157.100 to 157.180 until the books are paid for by the ***pupil, or his*** parent or guardian***,*** or accounted for in keeping with the regulations of the State Board for Elementary and Secondary Education.

Section 176. KRS 157.145 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] shall each year cause textbooks which have not been made obsolete by new adoptions and which, in his discretion, are in need of, and have valid content justifying ***rebinding,*** [~~such~~] to be rebound upon request of the local districts.

(2) When the ***chief state school officer*** [~~superintendent of public instruction~~] has received requests for rebinding, he shall prepare necessary forms to be mailed to the ***bindery*** [~~rebindery~~] under contract with the Commonwealth of Kentucky. Instructions for pick-up and delivery are to be given to the ***bindery*** [~~rebindery~~] and local district by the ***chief state school officer*** [~~superintendent of public instruction~~].

(3) Upon receipt of invoices from the bindery, the ***chief state school officer shall*** [~~superintendent of public instruction will~~] cause departmental purchase order forms to be prepared and mailed to the superintendent [~~or director~~]. The departmental purchase order form ***shall*** [~~will~~] be checked against books rebound and returned to the Department of Education authorizing payment of the invoice.

Section 177. KRS 157.150 is amended to read as follows:

All textbooks purchased under the provisions of KRS 157.100 are the property of the state. Each superintendent making requisition for the books is custodian of the books in his district. He shall issue the books to the various schools in his district according to [~~the~~] rules and regulations formulated by the ***chief state school officer and approved by*** [~~superintendent of public instruction, subject to the approval of~~] the State Board for Elementary and Secondary Education.

Section 178. KRS 157.160 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, shall make rules and regulations for the disposal of textbooks ***which will*** no longer [~~desirable to~~] be used for [~~purposes of~~] instruction. Each superintendent may make obsolete textbooks available to the residents of his district. He may publicize in the newspaper the availability of the books and the procedure for obtaining them in accordance with this section. Any funds accruing from the sale of ***the*** [~~such~~] books shall be paid into the ***local district's account*** [~~treasury~~].

Section 179. KRS 157.170 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, shall make rules and regulations governing the sale of textbooks by superintendents to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold textbooks as their own property. Superintendents shall not sell textbooks to private or sectarian schools. Books sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the ***local district's account*** [~~treasury~~].

Section 180. KRS 157.180 is amended to read as follows:

No teacher or school employee engaged in the distribution of textbooks under the provisions of KRS 157.100 to 157.170 shall sell, distribute, or in any way deal in any kind of school furniture or supplies for use in ***any*** [~~the~~] public schools.

Section 181. KRS 157.190 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~], subject to the approval of the State Board for Elementary and Secondary Education, shall provide basally adopted textbooks without cost to all children between the ages of six (6) and eighteen (18) who are confined in any state correctional institution in this state and who are regularly enrolled in classes of elementary ***and secondary*** grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.

(2) The ***chief state school officer*** [~~superintendent of public instruction~~] may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly ***maintained*** [~~taken care of~~]. If he finds anything [~~that is~~] improper about the requisitioning and use of ***the*** [~~such~~] books, he shall report it to the State Board for Elementary and Secondary Education.

(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending public schools.

Section 182. KRS 157.220 is amended to read as follows:

(1) The State Department of Education is hereby designated as the agency for cooperation with the state and federal governments, the non-public school programs and local schools of Kentucky in carrying out the provisions of KRS 157.200 to KRS 157.280. The State Board for Elementary and Secondary Education shall make necessary rules and regulations in keeping with the provisions of KRS 157.200 to KRS 157.280 for their proper administration, including but not limited to establishment of classes, eligibility and admission of pupils, the curriculum, class size limitations, housing, special equipment and instructional supplies.

(2) The State Department of Education is authorized to receive contributions and donations that may be made to carry out the provisions and requirements of KRS 157.200 to KRS 157.280.

(3) Local supervision of special educational facilities for exceptional children shall be approved by the ***Department of Education*** [~~office of education for exceptional children~~] according to rules and regulations approved by the State Board for Elementary and Secondary Education.

Section 183. KRS 157.224 is amended to read as follows:

(1) The Commonwealth of Kentucky is committed to providing a comprehensive educational program for its exceptional school age children. The ***Department of Education*** [~~office of education for exceptional children, through KRS 157.221,~~] coordinates, directs, and monitors that program. State direction and implementation of a statewide exceptional education program is manifested in the biennial appropriation of funds to finance a particular number of such classroom units. The rate at which new exceptional units are funded indicates the state's ability to assure a quality educational opportunity for appropriate students in existing, locally operated, exceptional class units.

(2) All county and independent boards of education shall operate special education programs to the extent required by, and pursuant to, a plan which has been approved by the State Board for Elementary and Secondary Education. If any county or independent board of education fails to operate and implement special education programs in accordance with an aforesaid plan, the application of said county or independent board of education for minimum foundation payments may be considered insufficient.

Section 184. KRS 157.260 is amended to read as follows:

The director of pupil personnel of each school district shall ascertain annually all children within his district who are handicapped and shall report the same to the Department of Education on forms provided by the [~~state~~] Department of Education and according to regulations prescribed by the ***chief state school officer*** [~~superintendent of public instruction~~].

Section 185. KRS 157.280 is amended to read as follows:

(1) If the number of children of school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality, the board shall provide a program by contract with another county or independent district or private organization that maintains a special education program approved by the State Board for Elementary and Secondary Education for that exceptionality. When a district or private organization undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of residence of these pupils shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts or district and private organization.

(2) The school board of the school district in which any child resides shall pay for his transportation to and from the program in the other school district or to the private organization. However, if the school board of the other district or the private organization providing the program also provides transportation, the cost of transportation shall be included in the total cost.

(3) If a child of school age is admitted for resident instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.170, the district in which the child resides shall provide transportation to and from the school on a regularly scheduled basis, at intervals of no less than twice each month while the child is enrolled, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~].

(4) If a child of school age is admitted as a day school pupil for instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.150, the district in which the child resides may provide transportation to and from the school on a daily basis, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~]. School districts providing this transportation shall be reimbursed from the transportation fund of the foundation program at the same rate per trip as that which is calculated under subsection (3) of this section.

Section 186. KRS 157.290 is amended to read as follows:

The local superintendent of schools shall present to the ***chief state school officer*** [~~superintendent of public instruction~~] an application for tentative preapproval of a plan for special education programs for exceptional children.

Section 187. KRS 157.510 is amended to read as follows:

As used in KRS 157.510 to 157.540 unless the context requires otherwise:

(1) "Board" means the State Board for Elementary and Secondary Education.

(2) "Current costs and expenses" means all expenditures except capital outlay, debt service and that portion of salaries for professional staff in excess of that calculated from the allotment schedule set forth in the biennial budget for teachers' salaries.

(3) [~~"Superintendent" means the superintendent of public instruction.~~

~~(4)~~] "Year-round school program" means any plan of operation, approved by the State Board for Elementary and Secondary Education upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], which requires the use of school facilities and resources throughout the school year.

Section 188. KRS 157.520 is amended to read as follows:

(1) It is the intention of the General Assembly in KRS 157.510 to 157.540 to permit the State Board for Elementary and Secondary Education, upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], to authorize a local board of education to operate public elementary and secondary schools on a basis other than the standard school day, month, term or year for purposes of experimentation. The objective of this legislation is to encourage experimentation that may result in improved quality of education or more efficient use of educational resources in the state.

(2) The board, upon recommendation of the ***chief state school officer*** [~~superintendent~~], shall adopt ***administrative*** regulations relating to the requirements to be met by school districts for authorization to operate experimental programs on a basis other than the standard school day, month, term or year.

(3) The board, upon recommendation of the ***chief state school officer*** [~~superintendent~~], shall select no more than three (3) school districts from those applying for authorization to operate experimental programs on a basis other than those requirements provided by KRS 158.060 and 158.070(2).

(4) The board, upon recommendation of the ***chief state school officer*** [~~superintendent~~], shall select at least three school districts, if three (3) school districts meeting the requirements of the board apply, for experimental operation of year-round school programs.

Section 189. KRS 157.530 is amended to read as follows:

(1) Any school district selected for experimental year-round school program operation shall be reimbursed by the Department of Education, out of funds not required by law to be expended in any other manner, in an amount equal to all current costs and expenses of the district for furnishing such services in excess of the regular school year. The school services furnished shall be substantially equal to those provided during the regular school year.

(2) For each fiscal year the Finance and Administration Cabinet, on certification of the ***chief state school officer*** [~~superintendent~~], shall draw warrants on the State Treasurer for the amount of funds due each school district selected for operation of a year-round school program. On or before July 1 of each year, the ***chief state school officer*** [~~superintendent~~] shall determine the tentative allotment of funds to which each selected district is entitled. On August 1 of each year and on the first of each month for two (2) successive months, a warrant in the amount of one-fourth (1/4) of each selected district's estimated current cost and expenses shall be remitted to the school district. On November 1 of each year the school district shall make application to the ***chief state school officer*** [~~superintendent~~] for the balance of reimbursement due. Upon approval of the application, the ***chief state school officer*** [~~superintendent~~] shall notify the Finance and Administration Cabinet of the final payment due each selected school district.

Section 190. KRS 157.540 is amended to read as follows:

The ***chief state school officer*** [~~superintendent~~] shall make thorough cost, benefit, and effectiveness analyses and evaluation of all experimental programs operating under the provisions ***of KRS 157.510 to 157.530*** [~~herein~~] and shall make annual progress reports and, at the earliest appropriate time, final recommendations relating to their continuation, expansion, or termination to the Legislative Research Commission and to the Governor.

Section 191. KRS 157.605 is amended to read as follows:

There is hereby established the "Ride to the Center for the Arts Program Fund" in the [~~office of instruction in the~~] Department of Education. The fund may receive state appropriations, gifts, grants, federal funds and tax receipts. Moneys from the fund shall be disbursed for purposes specified in KRS 157.606.

Section 192. KRS 157.606 is amended to read as follows:

(1) To facilitate opportunities for statewide participation by public school children in the Commonwealth in educational experiences available through the Kentucky Center for the Arts, the ***Department of Education*** [~~Office of Instruction~~] shall administer the Ride to the Center for the Arts program. Moneys from the Ride to the Center for the Arts fund shall be used to provide matching funds to local school districts for the cost of transportation of students in grades six (6), seven (7), eight (8) and nine (9) for the purpose of visiting the Kentucky Center for the Arts.

(2) Grants shall be in the amount equal to one-half (1/2) the total transportation cost of ***the*** [~~such~~] visit, as submitted and certified to by the local district to the ***chief state school officer*** [~~associate superintendent of the office of instruction~~] or his designee.

(3) The State Board for Elementary and Secondary Education shall promulgate [~~such~~] administrative regulations as may be needed in the administration of the program and disbursement of moneys from the fund.

Section 193. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

(1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay fund; the capital outlay fund account balance; and the general fund balance

minus ten percent (10%) of the annual general fund above-the-line budget. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;

(2) "Board of education" means the governing body of a county school district or an independent school district;

(3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city or county in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;

(4) "Department" means the state Department of Education;

(5) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the [~~Commonwealth of Kentucky~~] Revenue Cabinet ***as provided by KRS 160.470***;

(6) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;

(7) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;

(8) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;

(9) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the State Board for Elementary and Secondary Education;

(10) "Unmet need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue.

(11) "Eligible district" shall mean any local school district having an unmet need, as defined in this section, in excess of one hundred thousand dollars ($100,000).

Section 194. KRS 157.620 is amended to read as follows:

(1) [~~In order~~] To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Levy a minimum equivalent tax rate of twenty-five (25) cents as defined by KRS 157.615;

(b) All new revenue generated by any tax increase required to meet the minimum equivalent tax rate must be placed in a restricted account for school building construction bonding; and

(c) On July 29, 1985 and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by this Act for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly the State Board for Elementary and Secondary Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the State Board for Elementary and Secondary Education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981 shall be revised by December 31, 1985. The State Board for Elementary and Secondary Education shall conduct public hearings on all amendments to approved plans.

(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of such a plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the ***chief state school officer*** [~~superintendent of public instruction~~] may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the ***chief state school officer*** [~~superintendent of public instruction~~] elects to recommend the new facility plan to the State Board for Elementary and Secondary Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.

Section 195. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

(1) Upon receipt of the certified statements from the State Board for Elementary and Secondary Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;

(2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;

(3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the facility plan certified to the School Facilities Construction Commission prior to the appropriation of funds, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the State Board for Elementary and Secondary Education upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~] that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;

(4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified.

(5) The commission shall establish regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year; and

(6) All unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section.

Section 196. KRS 157.720 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the office of the secretary, Commerce Cabinet, for administrative purposes.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the commissioner of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of labor, the chairman of the Council on Higher Education, and the ***chief state school officer*** [~~superintendent of public instruction~~]. Thirteen (13) members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice-chairman, secretary and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The board shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

Section 197. KRS 158.032 is amended to read as follows:

(1) Upon notification by the ***chief state school officer*** [~~Superintendent of Public Instruction~~] of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of ***the*** [~~such~~] child ***so*** [~~in a manner~~] that ***when*** [~~whenever~~] a copy of or information regarding the child's record is requested, the school shall be alerted [~~to the fact~~] that the record is that of a missing child. The school shall immediately report to the Justice Cabinet any request concerning flagged records or any knowledge as to the whereabouts of any missing child.

(2) Upon notification by the ***chief state school officer*** [~~Superintendent of Public Instruction~~] of any missing child who has been recovered, the school shall remove the flag from the child's record.

(3) Upon enrollment of a student for the first time in any elementary or secondary school, ***the*** [~~such~~] school shall notify in writing the person enrolling the student that within thirty (30) days the person ***shall*** [~~must~~] provide either:

(a) A certified copy of the student's birth certificate; or

(b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate.

(4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the missing child information center and local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.

(5) Within fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify the Justice Cabinet.

Section 198. KRS 158.035 is amended to read as follows:

Except as [~~otherwise~~] provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a medical or osteopathic physician [~~duly~~] licensed in any state. ***The certificate shall state*** [~~stating~~] that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola, and rubella in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036 and 214.990 and the regulations of the Secretary for Human Resources. The governing body of private and public schools shall enforce the provisions of this section.

Section 199. KRS 158.037 is amended to read as follows:

Each public or private[~~,~~] elementary or secondary school shall report tuberculin skin test and immunization results to ***its*** [~~their~~] local health ***department*** [~~departments~~] in accordance with regulations promulgated by the Cabinet for Human Resources.

Section 200. KRS 158.105 is amended to read as follows:

Each school district in this state shall admit to its twelve (12) grade school service, without tuition, any veteran of the armed forces whose attendance was interrupted, before completing the approved twelve (12) grade school course, ***because*** [~~by reason~~] of induction or enlistment in the armed forces. ***The veteran shall apply***[~~, who applies~~] for re-enrollment in the public school system of the district of his residence not later than four (4) years after his honorable discharge from the armed forces. However, this is not intended to apply to enrollment by veterans, in special courses for ***which*** [~~whom~~] tuition is paid under the provisions of federal laws, or otherwise.

Section 201. KRS 158.108 is amended to read as follows:

No child shall be denied full participation in any educational program due to an inability to pay for, or rent, necessary school supplies, including textbooks.

Section 202. KRS 158.110 is amended to read as follows:

(1) Boards of education may provide transportation from their general funds or otherwise for any pupil of any grade to the nearest school to ***the*** [~~said~~] pupil's residence within the district ***if the pupil*** [~~who~~] does not live within a reasonable walking distance to such nearest school of appropriate grade level. The local board may provide transportation by means of a board-operated transportation system, transit authorities organized and operating pursuant to KRS Chapter 96A, local governmental mass transit systems and individual contracted buses and vehicles.

(2) When space is not available at the nearest school, boards of education may provide transportation from their general funds or otherwise for any pupil of any grade who does not live within a reasonable walking distance to the nearest school of appropriate grade level where space is available. Transportation may be provided by means pursuant to subsection (1) of this section.

(3) Public elementary and secondary schools shall not change their present grade level structure without written permission from the State Board for Elementary and Secondary Education.

(4) The boards of education shall adopt such rules and regulations as will insure the comfort, health and safety of the children who are transported, consistent with the rules and regulations of the State Board for Elementary and Secondary Education dealing with the transportation of pupils.

Section 203. KRS 158.120 is amended to read as follows:

***(1)*** Any board of education may charge a reasonable tuition fee per month for each child attending its schools whose parent, guardian or other legal custodian is not a bona fide resident of the district. Any controversy as to the fee shall be submitted to the State Board for Elementary and Secondary Education for final settlement. The fee shall be paid by the board of education of the school district in which the pupil resides, except in cases where the board makes provision for the child's education within his district. If a board of education is required to pay a pupil's tuition fee, the pupil shall be admitted to a school only upon proper certificate of the board of education of the district in which he resides.

***(2) When it appears to the board of education of any school district that it is convenient for a pupil of any grade residing in that district to attend an approved public school in another district, the board of education may enter into a tuition contract with the public school authorities of the other school district for that purpose, but before a contract is entered into with public school authorities in another state the school shall have been approved by the state school authorities of that state through the grades in which the pupil belongs. When a district undertakes, under operation of a tuition contract or of law, to provide in its school for pupils residing in another district, the district of their residence shall share the total cost of the school, including transportation when furnished at public expense, in proportion to the number of pupils or in accordance with contract agreement between the two (2) boards.***

Section 204. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means those children of school age committed to or in custody of a Cabinet for Human Resources operated or contracted institution or facility, or Cabinet for Human Resources operated or contracted day treatment center, designated by the secretary of the Cabinet for Human Resources for the treatment of mental illness, emotional disturbance, mental retardation, or behavior disorders; and

(b) "Current costs and expenses," means all expenditures, other than for capital outlay and debt service, which, in the final result, are an actual charge on the tax revenue of the school district for the furnishing of school services to state agency children. Among other things, "current costs and expenses" does not include those expenditures for which the school district receives reimbursement from any source, other than from the state under the provisions of this section. However, in determining ***the*** [~~such~~] costs and expenses, consideration shall be given to the fact that classroom units are more expensive for exceptional children.

(2) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district which provides elementary or secondary school services to state agency children shall be reimbursed by the Department of Education, out of funds not required by law to be expended for other purposes or in any other manner, in an amount equal to all current costs and expenses of the district for furnishing such services in excess of any per capita distribution received from the common school fund on behalf of the children. The school services furnished to state agency children shall be substantially equal to those furnished to other school children of the district.

(3) The school district shall make to the ***chief state school officer the*** [~~superintendent of public instruction such~~] reports [~~as~~] he requires concerning school services for state agency children, and shall file with the Cabinet for Human Resources operating the institution or day treatment center or contracting for such services in which the children are located a copy of the annual report made to the ***chief state school officer*** [~~superintendent of public instruction~~].

(4) The school district, at the end of each school year, shall make application to the ***chief state school officer*** [~~superintendent of public instruction~~] for the reimbursement due on behalf of school services furnished during the year just ended. After approving the application, the ***chief state school officer*** [~~superintendent of public instruction~~] shall notify the secretary of the Finance and Administration Cabinet who shall cause a warrant, in the appropriate amount, to be drawn in favor of the school district.

(5) Notwithstanding the provisions of any other statute, school districts furnishing services to state agency children may operate a year-round program for ***those*** [~~such~~] children and may be compensated on a year-round basis provided that priority in allotting funds shall be given to one hundred eighty-five (185) day school programs.

Section 205. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the farm bureau, members of the Interim Joint Committee on Education and other interested groups, the Department of Education shall develop statewide student discipline guidelines and recommendations designed to reduce the dropout rate in the state's public schools.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, strategies currently being used successfully in programs in Kentucky and in other states shall be incorporated into the statewide guidelines and the recommendations to reduce dropouts.

(3) Copies of the discipline guidelines shall be distributed to all school districts [~~by January 1, 1985~~]. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code, which shall be filed with and approved by the state Department of Education and State Board for Elementary and Secondary Education. The local code shall be distributed to all students and parents in the district.

(4) [~~The recommendations to reduce dropouts shall be implemented during the 1985-86 school year.~~] The Department of Education shall first provide technical assistance to those districts reporting the greatest number of dropouts. Reporting requirements shall be established by the Department of Education; however, reports shall be prepared in a manner that will provide data on successful strategies for dropout prevention.

(5) The State Board for Elementary and Secondary Education shall establish criteria for the development of dropout prevention programs and award grants for up to twenty (20) school districts in which:

(a) The percentage of students dropping out of school is among the highest twenty-five (25) districts in the state; and

(b) More than one hundred (100) students drop out of schools each year.

These grants shall be administered through contracts whereby school districts agree to provide dropout prevention services specified by the State Board for Elementary and Secondary Education. In addition, the State Board for Elementary and Secondary Education shall have the authority to award up to twenty (20) grants to school districts having high dropout rates but fewer than one hundred (100) dropouts per year. The State Board for Elementary and Secondary Education shall develop grant funding criteria based upon available appropriations.

Section 206. KRS 158.175 is amended to read as follows:

(1) As a continuation of the policy of teaching our country's history and as an affirmation of the freedom of religion in this country, the board of education of a local school district may authorize the recitation of the traditional Lord's prayer and the pledge of allegiance to the flag in public elementary schools. Pupil participation in the recitation of the prayer and pledge of allegiance shall be voluntary. Pupils shall be reminded that this Lord's prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom. Pupils shall be informed that these exercises are not meant to influence an individual's personal religious beliefs in any manner. The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion symbolized by the recitation of the Lord's prayer.

(2) The board of education of each [~~public local~~] school district shall establish a policy and develop procedures whereby the pupils in each elementary and secondary school may participate in the pledge of allegiance to the flag of the United States at the commencement of each school day. Included in the policy shall be a plan for incorporating into the social studies curriculum instruction concerning the proper display of and respect for the flag of the United States and the flag of Kentucky.

(3) The board of education of each local school district may purchase or otherwise acquire and provide for display in each classroom copies of the Declaration of Independence, the Gettysburg Address and other documents the local board deems significant to the history of Kentucky and the United States.

Section 207. KRS 158.200 is amended to read as follows:

The boards of education of independent and county school districts may provide for moral instruction of pupils ***in*** [~~subject to~~] their jurisdiction, in the manner provided in KRS 158.210 to 158.260.

Section 208. KRS 158.210 is amended to read as follows:

The board of education of each school district may [~~authorize a complete~~] survey [~~of~~] all the pupils attending the public schools within the district and ascertain those pupils who desire moral instruction and have the consent of parent or guardian for the instruction.

Section 209. KRS 158.220 is amended to read as follows:

The boards of education shall ***allow*** [~~fix one (1) day each week when~~] pupils who have expressed a desire for moral instruction ***to*** [~~may~~] be excused for at least one (1) hour***, one day (1) each week*** to attend their respective places of worship or some other suitable place to receive moral instruction in accordance with the religious faith or preference of the pupils.

Section 210. KRS 158.230 is amended to read as follows:

Each board of education may make [~~such~~] arrangements with the persons in charge of the moral instruction as the board deems necessary and advisable.

Section 211. KRS 158.240 is amended to read as follows:

Pupils ***who attend*** [~~attending~~] the classes for moral instruction at the time specified and for the period fixed shall be credited with the time spent as if they had been in actual attendance in school.

Section 212. KRS 158.250 is amended to read as follows:

Any pupil who ***does not participate in*** [~~fails to take advantage of~~] the moral instruction shall remain in school during the time when the instruction is being given, but shall not receive any educational advantage over children receiving the moral instruction.

Section 213. KRS 158.260 is amended to read as follows:

[~~The~~] Moral instruction shall be given without expense to any board of education beyond the cost of the original survey.

Section 214. KRS 158.770 is amended to read as follows:

An advisory committee on writing shall be created by the State Board for Elementary and Secondary Education to make recommendations to the board regarding the establishment of an intensive writing component in the state program of studies for grades seven (7) through ten (10) and the establishment of innovative pilot writing programs in selected local school districts in grades seven (7) through ten (10).

(1) The advisory committee shall be composed of nine (9) members appointed by the State Board for Elementary and Secondary Education. The majority of the membership shall be educators currently employed by local school districts or public universities.

(2) ***(a) On the effective date of this Act, the terms of the current members of the advisory committee shall expire and the State Board for Elementary and Secondary Education shall appoint members as follows: three (3) members shall serve two (2) year terms, three (3) members shall serve three (3) year terms, and three (3) members shall serve four (4) year terms.***

***(b) As the terms described in subsection (a) of this section expire, members appointed thereafter shall serve four (4) year terms.*** [~~The advisory committee shall serve through the month of December, 1988.~~]

(3) All operating expenses of the committee shall be approved by the State Board for Elementary and Secondary Education and paid from funds budgeted to the writing programs. Members shall be reimbursed for actual expenses for attendance at committee meetings and for other actual expenses incurred in carrying out their official duties.

(4) The functions of the committee shall be as follows:

(a) Analyze the program of studies of grades seven (7) through ten (10) and make recommendations to the State Board for Elementary and Secondary Education on the options for including an intensive writing program;

(b) Make recommendations to the State Board for Elementary and Secondary Education on methods of integrating writing into the curriculum in grades seven (7) through ten (10);

(c) Make recommendations to the State Board for Elementary and Secondary Education relative to the development of teacher training programs and workshops designed to facilitate the effective teaching of writing;

(d) Develop and recommend to the State Board for Elementary and Secondary Education criteria for local district participation in the pilot program;

(e) Develop a monitoring and on-going evaluation system; and

(f) Recommend to the State Board for Elementary and Secondary Education a grant allotment system to award funds to eligible districts.

Section 215. KRS 158.780 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall establish a management assistance program directed to local districts with critical management deficiencies as determined by the state Department of Education.

(2) The board is authorized to ***adopt*** [~~make~~] necessary ***administrative*** [~~rules and~~] regulations to carry out the provisions of KRS 158.780 and 158.785.

(3) The board is authorized to provide management assistance pursuant to KRS 158.780 and 158.785 to a minimum of five (5) districts each year of the biennium [~~following October 18, 1985~~].

Section 216. KRS 158.790 is amended to read as follows:

(1) The Governor's commission on literacy is hereby established and is attached to the office of the secretary of the Education and Humanities Cabinet.

(2) [~~The~~] Members of the commission on literacy shall be appointed by the Governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult literacy programs.

(3) Members shall be appointed for a term of four (4) years or until their successors are appointed and qualified, and shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employees. Members may be reappointed to the commission. In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which the member has been appointed.

(4) The duties of the commission on literacy shall be to:

(a) Formulate a statewide strategy and program plan for adult literacy;

(b) ***Administer a statewide adult literacy program;***

*(c)* Review and recommend grants to public and private groups to support literacy programs;

*(d)*[~~(c)~~] Review and evaluate literacy programs and report findings and recommendations to the Governor, the Legislative Research Commission, and appropriate cabinet and department heads;

***(e) Provide services to every county for the operation of adult literacy programs, subject to the availability of resources;***

*(f)*[~~(d)~~] Provide a public information and education program to promote literacy;

*(g)*[~~(e)~~] Enroll the support of business and industry for literacy programs;

*(h)*[~~(f)~~] Perform such other functions as may be assigned by the Governor;

*(i)*[~~(g)~~] Employ an executive director and other necessary personnel within the limits of funds made available; and

*(j)*[~~(h)~~] Conduct research projects or make studies into and publish reports on the extent of illiteracy in Kentucky.

Section 217. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private, parochial, or church regular day school. It shall be the duty of each private, parochial or church regular day school to notify the local board of education of those students in attendance at the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in private, parochial, or church school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state supported program for exceptional children;

(g) For purposes of this section, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.

(2) Before granting an exemption under [~~paragraph (d) of~~] subsection (1)*(d)* of this section the State Board for Elementary and Secondary Education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, psychologist or psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exempt ***the*** [~~any such~~] child from compulsory attendance. Any child who is excused from school attendance more than six (6) months ***shall*** [~~must~~] have two (2) signed statements from a combination of the following professional persons: a licensed physician, psychologist, psychiatrist, and health officer. Exemptions of all children under the provisions of subsection (1)(d) of this section ***shall*** [~~must~~] be reviewed annually with the evidence required being updated.

(3) For any [~~such~~] child who is excluded under the provisions of subsection (1)(d) of this section, home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the State Board for Elementary and Secondary Education shall be provided.

Section 218. KRS 159.035 is amended to read as follows:

***Notwithstanding the provisions of any other statute, any student*** [~~Anything in the statutes of the Commonwealth to the contrary notwithstanding, all pupils~~] in ***a public school*** [~~the schools of the state~~] who ***is*** [~~are~~] enrolled in a properly organized 4-H club shall be considered present at school for all purposes when participating in regularly scheduled 4-H club educational activities, provided, the student is accompanied by or under the supervision of a county extension agent or the designated 4-H club leader for the 4-H club educational activity participated in.

Section 219. KRS 159.070 is amended to read as follows:

Each school district shall constitute a separate attendance district unless two (2) or more contiguous school districts, with the approval of the State Board for Elementary and Secondary Education, unite to form one (1) attendance district. Controversies arising in attendance districts relating to attendance matters shall be submitted to the State Board for Elementary and Secondary Education for settlement.[~~, and~~] In case an agreement suitable to all parties cannot be reached, the State Board for Elementary and Secondary Education may dissolve a united district. In case of dissolution, each school district involved may unite with other contiguous school districts in forming a united attendance district or may act as a separate attendance district. Within the appropriate school district attendance area, parents or legal guardians shall be permitted to enroll [~~for attendance~~] their children in the public school nearest their home.

Section 220. KRS 159.080 is amended to read as follows:

(1) Each board of education shall, upon the nomination and recommendation of the superintendent, appoint a director of pupil personnel and such assistants as are deemed necessary. Salaries of directors and assistants shall be fixed by the board of education.

(2) Directors of pupil personnel and assistants shall have the general qualifications of teachers and, in addition, shall hold a valid certificate issued in accordance with the rules and regulations of the State Board for Elementary and Secondary Education. Certificates valid on January 1, 1956, for attendance officer shall hereafter be valid for the positions of director of pupil personnel. Such certificates shall be re-issued or renewed in accordance with the terms of the state board regulations applying at the date of issue.

***(3) Directors of pupil personnel and assistants shall be allowed their necessary and authorized expenses incurred in the performance of their duties. Each board shall bear the expense of its directors of pupil personnel and assistants incurred in its district.***

***(4) The office of the superintendent of schools shall be the office of the director of pupil personnel and suitable space shall be provided therein or adjacent thereto for him.***

Section 221. KRS 159.140 is amended to read as follows:

The director of pupil personnel shall:

(1) Devote his entire time to the duties of his office;

(2) Enforce the compulsory attendance and census laws in the attendance district [~~which~~] he serves;

(3) Acquaint the school with the home conditions of the child, and the home with the work and advantages of the school;

(4) Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;

(5) Secure the enrollment in school of all children who should be enrolled and keep all enrolled children in reasonably regular attendance;

(6) Visit the homes of children who are absent from school or who are reported to be in need of books, clothing or parental care;

(7) [~~Ascertain and~~] Report to the superintendent of schools in the district in which the child resides the number and cost of books and school supplies needed by any child whose parent, guardian or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;

(8) Keep the records and make the reports that are required by law, by regulation of the State Board for Elementary and Secondary Education, and by the superintendent and board of education.

Section 222. KRS 159.160 is amended to read as follows:

The principal or teacher in charge of any public, private or parochial school shall report to the superintendent of schools of the district in which the school is situated the names, ages and places of residence of all pupils in attendance at his school together with any other facts that the superintendent may require to facilitate carrying out the laws relating to compulsory attendance and employment of children. The reports shall be made within [~~the first~~] two (2) weeks of the beginning of [~~school in~~] each school year.

Section 223. KRS 159.250 is amended to read as follows:

The director of pupil personnel of each school district, working under the direction of the superintendent of schools, shall institute and maintain a complete, accurate, permanent and continuous census of all [~~enrolled~~] children between the ages of five (5) and twenty-one (21) enrolled in the public schools in the district. A child's age is between five (5) and twenty-one (21) when the child has reached his fifth birthday and has not passed the twenty-first birthday. The school census shall specify the name, date of birth and sex of each child; the name, nationality and post-office address of each parent, guardian or custodian of the child; the school district in which the child resides; and the school in which the child is enrolled. The school shall be described by number and name. The census shall contain any other data required by the ***chief state school officer*** [~~superintendent of public instruction~~]. Each board of education shall furnish its director of pupil personnel with assistance it deems necessary for the institution and maintenance of the census.

Section 224. KRS 159.270 is amended to read as follows:

No director of pupil personnel or other person shall ***willfully*** [~~wilfully~~] or fraudulently report a larger number of children of school age in any district than the actual number, or otherwise make a false report of the census to the ***chief state school officer*** [~~Superintendent of Public Instruction~~].

Section 225. KRS 160.020 is amended to read as follows:

All school districts embracing cities of the first five (5) classes together with the territory within their limits, including any territory [~~that has been~~] added for school purposes outside of the city limits, and all independent graded common school districts having a school census enumeration of two hundred (200) or more children, constitute independent school districts, except ***those which*** [~~such of them as~~] have merged with a county school district since June 14, 1934. No independent district other than a city of the first five (5) classes shall continue to operate when its school census enumeration of children falls below two hundred (200) pupils unless it appears to the State Board for Elementary and Secondary Education that the district can maintain a more efficient program of school service by operating as an independent district.

Section 226. KRS 160.041 is amended to read as follows:

(1) When a board of education of an independent school district desires to have its district become a part of the county school district, it shall by motion so record its desire in the minutes of the board. The board, or its executive officer, shall convey this request to the county board of education. At its next regular meeting, or at a special meeting held prior thereto, the county board of education shall pass upon this request.

(2) If the county board of education refuses, or the two (2) boards of education cannot agree upon such a proposition of merger of the independent district with the county district, the question of merger shall be submitted to the qualified voters of the two (2) districts at the next regular election.

(a) If a majority of those voting on the question favor merger, the school boards of the two (2) school districts shall jointly develop a plan for adoption of the merger.

(b) If the two (2) school boards cannot agree to the terms of merger within sixty (60) days following the date of the regular election, the ***chief state school officer*** [~~superintendent of public instruction~~] shall develop the terms of the adoption of merger.

(c) Notwithstanding subsection (2)(a) of this section, if the independent school district cannot meet its current operating expenses from projected revenue and if the two (2) school boards cannot agree to the terms of a merger, [~~then~~] the proposition of merger shall be submitted to the State Board for Elementary and Secondary Education and the State Board for Elementary and Secondary Education shall determine whether [~~or not~~] the two (2) districts should be merged and if merged the terms thereto.

(d) Upon completion of the plan for adoption of the merger, whether prepared by the school boards or the superintendent, it shall become effective and the independent district shall become a part of the county school district as set out in the plan.

Section 227. KRS 160.045 is amended to read as follows:

(1) If seventy-five percent (75%) of either the registered voters or property owners in an area adjacent to either a county or independent school district petition the respective school boards for a transfer of said property to the school board district other than that in which it is located or if either board initiates such action, the school boards may effect ***the*** [~~such~~] transfer by agreement, duly spread upon the minutes of their respective boards.

(2) ***If*** [~~In the event that~~] the boards fail to agree within ninety (90) days from the filing of petitions for ***the*** [~~such a~~] transfer, either board may petition the ***chief state school officer*** [~~superintendent of public instruction~~] for approval or disapproval of the transfer of the property involved. In his consideration for giving approval or disapproval, he shall be governed by any policies and rules and regulations of the State Board for Elementary and Secondary Education which may be affected by the transfer of the property and shall give due consideration to the following: the ratio of the wealth of the territory involved in its relation to the total wealth of the district from which the territory will be annexed; the effect of the proposed territorial loss or gain on the educational programs of the respective districts; extent of and effect on the physical plant, facilities and equipment available in each of the affected districts; the indebtedness and bonded or rental obligations of the respective districts; any contemplated indebtedness or obligation arising out of the proposed transfer; and [~~such~~] other factors as may have a bearing upon the determination of the desirability of the proposed annexation from the vantage point of all interested persons.

(3) In those instances where the requested transfer will result in a surplus of physical plant, facilities or equipment in the transferring school district, the ***chief state school officer*** [~~superintendent of public instruction~~] shall determine an equitable plan for the transfer of any [~~such~~] surplus to the annexing district as his plan may determine will be needed. His plan shall be based on the fair value of such property on a replacement basis, taking into consideration its age and condition. In any considerations and suggestions which he may propose for the settlement of the differences between the boards of education, he shall be bound by any agreements outstanding between the boards of education of the school districts on July 15, 1982.

(4) ***If*** [~~In the event~~] the ***chief state school officer*** [~~superintendent of public instruction~~] is unable to arrive at a satisfactory agreement with the two (2) boards of education concerning the transfer of the involved property within one hundred twenty (120) days from the time it is presented to him, either board may request that he bring the matter on for hearing before the State Board for Elementary and Secondary Education at its next regularly scheduled meeting. In that event, he shall file with the State Board for Elementary and Secondary Education all the facts which he has gathered, the recommendation he has made, and the basis for his recommendation, for their consideration. In those instances where, after giving consideration to the factors set forth in subsection (2) ***of this section***, the ***chief state school officer*** [~~superintendent of public instruction~~] determines that a transfer of only a portion of the territory in question is in the best interest of the respective districts, he may recommend to the State Board for Elementary and Secondary Education a modified plan of transfer of territory.

(5) Within at least ten (10) days before the holding of any hearing provided for in subsection (4) of this section, the ***chief state school officer*** [~~superintendent of public instruction~~] shall serve written notice thereof by certified mail, return receipt requested, on the respective boards fixing the time and place at which the hearing shall be conducted. All hearings provided for herein shall be open to the public, and any interested person may appear and be heard in accordance with ***the*** [~~such~~] rules and regulations as the State Board for Elementary and Secondary Education may prescribe with reference thereto.

Section 228. KRS 160.048 is amended to read as follows:

(1) The General Assembly hereby finds that from time to time various school boards, in the exercise of their administrative discretion, have determined that their school districts would be most efficiently administered if one (1) or more of the district's schools were constructed and operated on land located outside the school districts' boundaries. The General Assembly further finds that this has been desirable and in furtherance of an efficient system of common schools. As urbanization increases, and school districts throughout the Commonwealth become more densely populated, available school sites within such districts will proportionately diminish, and it will with increasing frequency be necessary to construct schools on land not within the district of the school board constructing such schools. When a school is so located, it is more efficient for the school district constructing the school, but it is less efficient for the state-wide system of common schools and for the children residing in the immediate neighborhood of the new school, who reside in a different school district, and therefore must be transported to other, more distant schools. This situation results in an inefficient utilization of state and local school funds and school facilities, and is a result of the artifically drawn school district boundary lines. The General Assembly further finds that the discretionary method of transfer presently provided by KRS 160.045 is not adequate to assure an efficient operation of the common schools, and that it is desirable to provide for mandatory transfer of such areas. Pursuant to section 183 of the Kentucky Constitution, the General Assembly declares that such situations are special situations and require special treatment. It is the intent of the General Assembly to provide by this statute a special method whereby such areas may be transferred to the school district operating the school or schools.

(2) If seventy-five percent (75%) of either the registered voters or property owners in an area adjacent to a school district other than the district in which such area is located and in which area there is located a school owned and operated by such adjacent school district, petition the school board of the school district which owns and operates such school and the school board of the school district in which such area is located

for the transfer of such area from the school district in which it is located to the school district which owns and operates such school, then such area shall be so transferred.

(3) The effective date of such transfer shall be sixty (60) days after the date on which the petition is filed with the two (2) school boards; personal delivery of said petition to any member of the school board or to the superintendent of the school district shall constitute "filing" for purposes of this section. Provided, that if such effective date falls during a term of the school district in which such area is located, the two (2) school boards involved may, by agreement, defer the effective date of such transfer until the end of said term.

(4) The terms and conditions of such transfer shall be determined in the manner provided for the determination of the terms and conditions of transfer under KRS 160.045, except that the ***chief state school officer*** [~~state superintendent of public instruction~~], the State Board for Elementary and Secondary Education and the respective reviewing courts shall have no power to disapprove such transfer.

(5) Upon such transfer, the recipient district shall assume a portion of the bonded indebtedness of the losing district, as provided in KRS 160.065; such bonds shall remain the obligation of the issuing agency, and shall not be affected in any way by such transfer, except that each year the recipient district shall pay to the losing district a sum of money sufficient to make the payments on the portion of such indebtedness assumed by the recipient district, and such annual payments shall continue until all of the bonded indebtedness outstanding at the time of the transfer is paid in full.

(6) The method of transfer provided in this section shall be an alternative method to that set forth in KRS 160.045, and this section shall have no effect whatsoever on KRS 160.045.

Section 229. KRS 160.200 is amended to read as follows:

(1) All elections for members of boards of education shall be in even numbered years, for a term of four (4) years, except as provided in KRS 160.210(5). Except as provided in subsection (3) of this section, the elections shall be held at the regular November election. [~~In all county districts and in those independent districts embracing cities of the second or third class, two (2) members shall be elected in 1942 and three (3) in 1944. In all other school districts three (3) members shall be elected in 1942 and two (2) in 1944.~~]

(2) In each even numbered year [~~thereafter~~], there shall be held an election in every county and independent district to fill the membership of the boards of education for the terms that will expire on the first Monday in January following, and the regularly elected members shall hold office for four (4) years and until their successors are elected and have qualified.

(3) Any independent school district embracing a city of the fifth class may, at the discretion of its board of education, hold its election of board members at its public school building on the first Saturday in May. The election shall be held by three (3) officers appointed by the board of education and the expenses of the election shall be paid from the treasury of the school district. In all other respects the provisions of this chapter relating to holding elections for board members shall apply.

(4) In counties containing a city of the first class, wherein a merger pursuant to KRS 160.041 shall have been accomplished, the terms of the members shall be as provided in KRS 160.210(5). Elected members of such boards, excepting those boards of education representing ten percent (10%) or less of the student population of the county serving at the effective date of such a merger shall continue to serve until their term expires, but no appointments shall be made to fill vacancies. The terms of office of members of boards of education representing ten percent (10%) or less of the student population of the county shall expire on the effective date of the merger.

Section 230. KRS 160.291 is amended to read as follows:

(1) All school employees working on a continuing, regular basis, shall be paid regularly, on dates determined by the employing board of education, during the school year or during the fiscal year for twelve (12) month employees, the provisions of KRS 337.020 notwithstanding. The gross salary received on each pay date will be an amount equal to the school employee's annual salary divided by the number of pay dates.

(2) Salary amounts shall be paid on the prescribed pay dates without deduction for days on which schools were closed; provided, however, any time not worked for which pay is received must be made up prior to the end of that current school year, or pay so received shall be withheld from the final salary payment of that school year.

(3) Gross salary payments under subsection (1) of this section need not, but may, include pay for extra duties or services. Payment for such extra duties or services must be paid pursuant to a payment plan adopted by the board of education prior to the beginning of the school year.

(4) Payments made by the board of education under the authority of this section are deemed to be for services rendered and for the benefit of the common schools; the payments do not affect the eligibility of any school system to participate in the ***public school fund*** [~~foundation program~~] as established in KRS Chapter 157. Nor shall any individual board member or administrator be held liable where additional payments for such service become necessary. Provided, however, that nothing in this section authorizes or requires the payment of salaries to personnel when schools are closed as a result of a strike or other work stoppage or when schools are open and personnel fail to render services. No part of this section shall be law if any part is declared unconstitutional.

(5) Subsection (2) of this section does not apply to those employed on a twelve (12) month basis.

Section 231. KRS 160.293 is amended to read as follows:

Any statute to the contrary notwithstanding, upon the recommendation of the ***chief state school officer*** [~~Superintendent of Public Instruction~~], the State Board for Elementary and Secondary Education may adopt ***administrative*** regulations authorizing a local board of education to enter into an agreement with a public agency for the purpose of developing and maintaining on school property recreational facilities for school and community purposes in accordance with the following standards:

(1) The property must be used in such a manner and at such times so that there will be no interference with school activities.

(2) The control and management of this property shall be in accordance with ***administrative*** regulations adopted hereunder by the State Board for Elementary and Secondary Education.

(3) All agreements must have the prior approval of the ***chief state school officer*** [~~Superintendent of Public Instruction~~] and the Attorney General.

(4) Any agreement executed herein shall not be considered an indebtedness within the meaning of Sections 157 and 158 of the state Constitution ***of Kentucky***.

Section 232. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the ***chief state school officer*** [~~superintendent of public instruction~~] and approved by the State Board for Elementary and Secondary Education, prepare and submit to the State Board for Elementary and Secondary Education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) Personnel policies that apply to certified employees, including fringe benefits, salary schedules, non-classroom duties, in-service training, teacher-student ***ratio*** [~~load~~], hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion and demotion;

(f) Evaluation of certified employees;

(g) Selection of textbooks and instructional materials; and

(h) Expenditure and accounting for school funds, including all special funds.

***(3)*** It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 [~~thereafter~~] and shall be public records.

Section 233. KRS 160.455 is amended to read as follows:

As used in KRS 160.460 to ***160.597*** [~~160.599~~], unless the context requires otherwise:

"Tax levying authority" shall mean boards of education of county school districts and independent school districts.

Section 234. KRS 160.486 is amended to read as follows:

The license fees imposed by authority of KRS 160.482 to 160.488 shall be collected by the fiscal court or its agent, and the proceeds thereof shall be promptly divided and distributed to each school district within the county in proportion to the number of pupils in average daily attendance in each school district as shown by the most recent statistics certified by ***the chief state school officer*** [~~Superintendent of Public Instruction~~] pursuant to KRS 157.310 to 157.440. The fees shall be used for any purpose for which other common school funds may be used.

Section 235. KRS 160.550 is amended to read as follows:

(1) No superintendent shall recommend and no board member shall knowingly vote for an expenditure in excess of the income and revenue of any year, as shown by the budget adopted by the board and approved by the State Board for Elementary and Secondary Education, except for a purpose for which bonds have been voted or in case of an emergency declared by the State Board for Elementary and Secondary Education.

(2) Any school district having authorized an expenditure in violation of subsection (1) of this section may be so certified at any time by the State Board for Elementary and Secondary Education. A district so certified shall thereafter, any contrary statutory provisions notwithstanding, make no expenditure of money, give no authorization involving the expenditure of money, and make no employment, purchase, or contract, unless the ***chief state school officer*** [~~Superintendent of Public Instruction~~] has approved in writing, as fiscally sound and necessary, the expenditure, authorization, employment, purchase, or contract. Any expenditure, authorization, employment, purchase, or contract made in violation of this subsection shall be void.

(3) Any school district subject to the provisions of subsection (2) of this section shall so remain until such time as the State Board for Elementary and Secondary Education has approved, in conformity with KRS 160.470, a budget for the district for a succeeding fiscal year.

(4) In addition to the penalties set forth in KRS 160.990, any person who knowingly expends or authorizes the expenditure of school district funds or who knowingly authorizes or executes any employment purchase, or contract, in violation of this section, shall be jointly and severably liable in person and upon any official bond he has given to such district to the extent of any payments on the void claim. For purposes of this section, "knowingly" shall mean a person acts with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

Section 236. KRS 160.560 is amended to read as follows:

(1) Each board of education shall elect a treasurer for the board. The board may elect its secretary to serve as treasurer. The board may remove the treasurer from office at any time for cause by a vote of a majority of the members of the board.

(2) The treasurer shall execute an official bond for the faithful performance of the duties of his office, to be approved by the local board and the State Board for Elementary and Secondary Education. The bond shall be guaranteed by a surety company authorized to do business in this state, and shall be in an amount determined by the board of education in accordance with the rules and regulations of the State Board for Elementary and Secondary Education. The premium on the bond shall be paid by the board of education. A copy of the bond shall be filed with the board of education and with the State Board for Elementary and Secondary Education. All treasurer's bond forms shall be prepared by the ***chief state school officer*** [~~Superintendent of Public Instruction~~] and approved by the State Board for Elementary and Secondary Education.

(3) The treasurer shall receive all moneys to which the board is entitled by the constitution or by the statutes, except as otherwise provided by law, or which may in any way come into its possession, and deposit such funds in the properly designated depository. He shall withdraw such funds from the depository only upon proper order of the board. He shall keep a full and complete account of all funds in such manner and make such reports concerning them as is required by the board of education or by the State Board for Elementary and Secondary Education. He shall preserve all records relating to the transactions and duties of the office and turn them over to his successor along with all public funds in his hands and all accounts and records after due and proper audit is made by a competent outside agent when he is required to do so by the board of education.

(4) The treasurer shall issue his check on the depository for payment of all legal claims which have been authorized for payment in accordance with ***policies*** [~~rules and regulations~~] previously adopted by the local board of education and approved by the State Board for Elementary and Secondary Education.

Section 237. KRS 160.570 is amended to read as follows:

(1) Each board of education shall appoint a bank, trust company or savings and loan association to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars ($100,000) it may designate three (3) depositories except boards of education of school districts in counties containing cities of the first class may designate up to five (5) depositories. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.

(2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education and the State Board for Elementary and Secondary Education. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the rules and regulations of the State Board for Elementary and Secondary Education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the ***chief state school officer*** [~~Superintendent of Public Instruction~~] and approved by the State Board for Elementary and Secondary Education.

(3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.

(4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

Section 238. KRS 160.644 is amended to read as follows:

The school taxes and penalties collected under KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 shall be distributed to the treasurer of the board of education of the school district. In the event that more than one (1) board of education within the county is participating in one (1) of these tax levies, the funds collected shall be distributed in proportion to the tax rate levied and the number of pupils in average daily attendance in the participating districts as shown by the final certification by the ***chief state school officer*** [~~Superintendent of Public Instruction~~] for the previous school year pursuant to the provisions of KRS 157.310 to 157.440.

Section 239. KRS 161.152 is amended to read as follows:

(1) For the purpose of this section, "school personnel" shall mean any person employed as a full-time employee in the public schools.

(2) Each district board of education may allow each person employed as a full-time employee in the public schools not to exceed three (3) emergency days per school year for reasons designated by the district board of education, without loss of salary to the employee and without affecting his sick leave.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.155, except that school personnel, after using the maximum days allowed in subsection (2) of this section, may, upon the recommendation of the school district superintendent and approval of the district board of education, use up to three (3) sick-leave days per school year for emergency leave according to the district board policy as established pursuant to subsection (2) of this section.

(4) Payments made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and the payments do not affect the eligibility of any school district to participate in the ***public school funding*** [~~foundation~~] program as established in KRS Chapter 157.

Section 240. KRS 161.158 is amended to read as follows:

(1) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance or any group insurance plans to aid its employees, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. Such deductions shall be made from salaries earned in at least eight (8) different pay periods, and shall be remitted to the appropriate organization or association as specified by the employees. The deductions may be made for, but are not limited to, membership dues, tax sheltered annuities and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one (1) remittance, of amounts deducted during a pay period, for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, said board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools; and the payments and deductions do not affect the eligibility of any school system to participate in the ***public school funding*** [~~foundation~~] program as established in KRS Chapter 157.

Section 241. KRS 161.159 is amended to read as follows:

The State Board for Elementary and Secondary Education, upon the recommendation of the ***chief state school officer*** [~~Superintendent of Public Instruction~~], shall adopt rules and regulations to implement the state life insurance program provided for employees of the common schools subject to the following standards:

(1) The life insurance program shall cover both certified and non-certified common school personnel.

(2) The life insurance program shall be made available to all regular full-time personnel as defined by the State Board for Elementary and Secondary Education regulations.

Section 242. KRS 161.170 is amended to read as follows:

Each teacher in the public schools shall enforce the course of study, the use of the legally authorized textbooks, and the rules and regulations prescribed for the schools. If any teacher willfully refuses or neglects to comply with the law or such rules and regulations, the ***local*** [~~board of education, upon recommendation of the~~] superintendent[~~,~~] may remove him at any time. When so removed the teacher shall receive payment only for the time taught.

Section 243. KRS 161.200 is amended to read as follows:

(1) Each teacher in the public schools shall keep an approved record which shall be left with the superintendent or as he directs at the close of the term. The record shall show the program of recitations, classification, attendance and grading of all pupils who attended school at any time during the school year, and such other facts as are required.

(2) Notwithstanding the provisions of subsection (1) of this section, approved pupil attendance records, for state accounting purposes and for the purpose of state computation of pupil attendance, may be kept in a central location in the local elementary or secondary school. After attendance is reported and recorded by the classroom teacher, either a certified or non-certified person shall complete and check records in accordance with the methods and regulations approved by the superintendent of the local school district and the ***chief*** state ***school officer*** [~~Superintendent of Public Instruction~~]. A designated certified person within the local elementary or secondary school shall be responsible for auditing and certifying state attendance documents to verify their accuracy.

Section 244. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to teachers;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Teacher" means the ***chief state school officer*** [~~superintendent of public instruction~~], principal assistants to the ***chief state school officer*** [~~superintendent of public instruction~~] and all division directors in the state Department of Education, and any regular or special teacher, or professional [~~employee~~] occupying a position requiring certification [~~by the state Department of Education~~] or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state Department of Education, other public education agencies as created by the General Assembly, and such members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education***, or*** [~~and/or~~] other public educational institutions listed in this subsection***, or both,*** for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of such employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any teacher not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employee contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employees of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

Such limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and such increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of remuneration to the member for services performed;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the Teachers' Savings Fund for Retirement Annuity, including picked up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System or who made such contributions in the next preceding fiscal year, or for whom picked up employee contributions are currently being made or for whom such contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 245. KRS 161.250 is amended to read as follows:

The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the ***chief state school officer*** [~~superintendent of public instruction~~], the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. [~~In 1973, one (1) teacher trustee shall be elected for a regular four-year term and one (1) teacher trustee shall be elected for a two-year term. Thereafter,~~] One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected [~~in 1973, and each~~] ***every*** four (4) years [~~thereafter~~]. The ***chief state school officer*** [~~superintendent of public instruction~~] and the State Treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

Section 246. KRS 161.260 is amended to read as follows:

An election shall be held on or before June 1 of each year to elect trustees. The trustees to be elected each year shall depend upon the respective terms of the trustees elected under Acts 1938, 1st ex.s., c. 1, paragraph 7 and Acts 1940, c. 192, paragraph 7a and KRS 161.250. Each trustee shall assume office on

July 1 following his election and shall serve for a term of four years. The elections shall be conducted by ballot under the supervision of the ***chief state school officer*** [~~Superintendent of Public Instruction~~]. Each person who is a contributing member or an annuitant of the retirement system shall have the right to vote. Nominations for trustees shall be made by a nominating committee consisting of one committee member selected by the retirement system membership of each of the districts of the Kentucky Education Association, and one committee member to be selected by retired teachers, on a state-wide basis, from among the annuitants of the retirement system. No person may be a member of the nominating committee who is not a member of the system, except for the committee member to be selected from among the annuitants of the system. The President of the Kentucky Education Association shall preside over the meeting of the nominating committee and the secretary of the Teachers' Retirement System shall act as secretary to the committee. Two persons shall be nominated by the nominating committee for each position to be filled. All expenses of the election shall be paid by the board of trustees out of its general expense fund.

Section 247. KRS 161.662 is amended to read as follows:

(1) Teachers and superintendents with continuing status who retire because of disability shall, notwithstanding provisions of KRS 161.720 to 161.810 to the contrary, retain continuing status in the school district from which they retired for twenty-four (24) calendar months from the date of retirement, if the teacher or superintendent:

(a) Is approved for disability retirement under the provisions of KRS 161.661, or

(b) Is approved for disability retirement but elects to have benefits calculated on the service retirement formula under the provisions of KRS 161.661, or

(c) Is disqualified from receiving disability retirement benefits by KRS 161.661(2) but is otherwise eligible for disability retirement under the remaining provisions of KRS 161.661.

(2) ***(a)*** If the [~~teacher or~~] superintendent recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within the twenty-four (24) calendar month period but not later than April 15 prior to the beginning of the school term, the board of education shall reinstate the [~~teacher or~~] superintendent to active continuing status at the beginning of the school term. If notice of recovery from disability is not presented to the employing board of education within the twenty-four (24) calendar month period, or if the [~~teacher or~~] superintendent states to the board, in a verified document, prior to expiration of the twenty-four (24) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the [~~teacher or~~] superintendent shall terminate as by retirement under the provisions of KRS 161.661.

***(b) If the teacher recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the superintendent within the twenty-four (24) calendar month period but not later than April 15 prior to the beginning of the school term, the superintendent shall reinstate the teacher to active continuing status at the beginning of the school term. If notice of recovery from disability is not presented to the superintendent within the twenty-four (24) calendar month period, or if the teacher states to the superintendent, in a verified document, prior to expiration of the twenty-four (24) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the teacher shall terminate as by retirement under the provisions of KRS 161.661.***

(3) Retirement because of disability under this section shall not be cause for termination of the contract of a teacher or superintendent under KRS 161.790 during the twenty-four (24) calendar month period described in this section. A teacher or superintendent who applies for disability retirement under the provisions of KRS 161.661 shall retain continuing service status during the period of time the application for disability retirement is being processed. If the application is not approved, the teacher or superintendent may return to the contract, employment, or leave status held prior to submission of the application.

(4) ***(a)*** If the [~~teacher or~~] superintendent recovers from the disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within twenty-five (25) through forty-two (42) months from the date of retirement, the board shall give priority consideration to re-employment of the [~~teacher or~~] superintendent for the first available position for which the [~~teacher or~~] superintendent is qualified and certified.

***(b) If the teacher recovers from the disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the superintendent within twenty-five (25) through forty-two (42) months from the date of retirement, the superintendent shall give priority consideration to re-employment of the teacher for the first available position for which the teacher is qualified and certified.***

Section 248. KRS 161.770 is amended to read as follows:

(1) Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two (2) consecutive school years for educational or professional purposes, and shall grant such leave where illness, maternity, adoption of a child or children, or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. A board of education may pay a sum of money equivalent to all or any portion of salary to a teacher or superintendent who has been granted leave for educational or professional purposes if the person taking said leave agrees in writing to return to employment with the board for no less than two (2) years.

(2) Without request, a board of education may grant leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing and appeal on such unrequested leave of absence or its renewal in accordance with the provisions for hearing and appeal in KRS 161.790.

(3) Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he shall resume the contract status which he held prior to such leave.

(4) Payments to any teacher or superintendent under this section by a ***local district*** [~~board of education~~] are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school [~~foundation program~~] funds as established in KRS Chapter 157.

Section 249. KRS 161.780 is amended to read as follows:

No teacher or superintendent shall be permitted to terminate his contract within thirty (30) days prior to the beginning of his school term without the consent of the board; any such teacher or superintendent shall be permitted to terminate his contract at any other time when schools are not in session by giving two (2) weeks' written notice to the employing board of education. Upon complaint by the employing board to the ***chief*** state ***school officer*** [~~Superintendent of Public Instruction~~] and after investigation by him, the certificate of a teacher or superintendent terminating his contract in any other manner than provided in this section may be suspended for not more than one (1) year.

Section 250. KRS 161.800 is amended to read as follows:

When by reason of decreased enrollment of pupils, or by reason of suspension of schools or territorial changes affecting the district, a ***local superintendent*** [~~board of education~~] decides that it ***shall*** [~~will~~] be necessary to reduce the number of teachers, ***he*** [~~it~~] shall have full authority to make reasonable reduction. But, in making such reduction, the ***local superintendent*** [~~board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who~~] shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. Teachers whose continuing contracts are suspended shall have the right of restoration in continuing service status in the order of seniority of service in the district if [~~and when~~] teaching positions become vacant or are created for which any of ***the*** [~~such~~] teachers are or become qualified.

Section 251. KRS 162.030 is amended to read as follows:

Each board of education may, when unable to make a contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, initiate condemnation proceedings pursuant to the Eminent Domain Act of Kentucky ***(KRS 416.540 to 416.670)***, and the title to land so obtained shall be vested in fee simple.

Section 252. KRS 162.070 is amended to read as follows:

The contracts for the erection of new school buildings, additions and repairs to old buildings, except additions or repairs not exceeding ***seven thousand five hundred dollars ($7,500)*** [~~five thousand dollars ($5,000)~~], shall be made by the board of education ***with*** [~~to~~] the lowest and best responsible bidder complying with the terms of the letting, after advertisement for competitive bids pursuant to KRS Chapter 424, but the board may reject any or all bids. All necessary specifications and drawings shall be prepared for all such work. The board shall advertise for bids on all supplies and equipment that it desires to purchase, except where the amount of the purchase does not exceed ***seven thousand five hundred dollars ($7,500)*** [~~five thousand dollars ($5,000)~~], and shall accept the bid of the lowest and best bidder, but the board may reject any and all bids.

Section 253. KRS 162.120 is amended to read as follows:

***To provide*** [~~For the purpose of providing~~] buildings for school purposes, boards of education of school districts embracing a city of any class may convey to the city a fee simple title with covenant of general warranty to a site now held or hereafter acquired by ***the*** [~~such~~] boards of education.

Section 254. KRS 162.130 is amended to read as follows:

Every city to which a site for a building has been conveyed, as provided in KRS 162.120, shall enter into a contract or contracts with some person for the erection on the site of a building with the necessary appurtenances, according to plans and specifications adopted by the city and approved by the board of education and the ***chief state school officer*** [~~superintendent of public instruction~~].

Section 255. KRS 162.160 is amended to read as follows:

(1) When any city desires to construct a school building, under the provisions of KRS 162.150, the governing body of the city shall, by ordinance, cause plans and specifications for the building to be duly made and filed in the office of the city clerk. The plans and specifications shall give a full description of the building to be constructed, the details thereof and the manner of construction. The plans and specifications shall be prepared by an architect selected by the city and approved by the board of education of the school district, and shall be submitted to the board of education of the school district and to the ***chief state school officer*** [~~superintendent of public instruction~~] for approval.

(2) If the plans and specifications are approved, and if the board of education of the school district offers to lease the building under a lease of the kind provided in KRS 162.140, the city governing body shall cause the city clerk to advertise for bids, and thereafter the city governing body, through the mayor, may contract for the construction of the building.

Section 256. KRS 162.260 is amended to read as follows:

The city may issue refunding bonds ***to provide*** [~~for the purpose of providing~~] funds for the payment of any outstanding bonds, in accordance with the procedure prescribed for the issuance of the original bonds. The refunding bonds shall be secured to the same extent and shall have the same source of payment as the bonds which are refunded.

Section 257. KRS 162.440 is amended to read as follows:

The board of education of any city of the second class or of a county containing a city of the second class may, by resolution, establish a fund to be known as the "insurance fund" after written approval of the plan to administer ***the*** [~~said~~] fund has been secured from the ***chief state school officer*** [~~superintendent of public instruction~~]. The resolution shall [~~state and~~] fix the maximum limit of the fund. The fund shall be maintained separate from the other funds and moneys of the board, and shall be used exclusively for replacing or repairing any injury or destruction to any of the buildings owned by the board or to their contents when caused by fire, tornado, windstorm, cyclone, casualty, explosion, riot or flood, but not when caused by wear and tear or the natural processes of decadence or deterioration.

Section 258. KRS 162.480 is amended to read as follows:

When an injury occurs to any building or its contents from fire, tornado, windstorm, cyclone, casualty, explosion, riot or flood, the business director or secretary of the board of education shall, within thirty (30) days thereafter, prepare and file with the board a sworn written proof of loss, showing in detail the items of injury, and in detail an estimate of the extent of the financial loss and whether and to what extent the ***loss*** [~~same~~] is covered by insurance, with the names of the companies, the number of the policies and names of the agents. Before the board of education may appropriate any portion of the insurance fund, a committee appointed by the board shall report to the board in writing, ***making recommendations and*** answering in detail the following questions [~~and making such recommendations as they deem best~~]:

(1) What is the entire loss on the building? When and what caused it?

(2) What deduction should be made for wear and tear and the natural processes of decadence or deterioration?

(3) What portion of the loss proposed to be made good from this fund resulted from causes covered by this fund?

(4) Will it be practicable to make the restoration from the general fund and the proceeds of any insurance policies without assistance from this fund?

(5) If assistance is needed from this fund, how much? How will the portion so used be returned to the fund?

(6) Does [~~or does not~~] the committee recommend an appropriation from this fund to aid in the restoration proposed? If so, how much?

Section 259. KRS 162.490 is amended to read as follows:

***If*** [~~In case~~] any insurance company delays in paying to the board of education the amount of any loss under a policy the board may, on the recommendation of its building and finance committee, appropriate ***from*** [~~out of~~] the insurance fund a sum not exceeding the amount of the probable loss under the policy to aid in the prompt restoration of the loss. [~~In no event shall~~] The amount drawn from the insurance fund ***shall not*** exceed the amount collectible from the policy. A resolution shall be adopted setting over to the insurance fund the proceeds of the policy or sufficient thereof to replace the amount so used, and the proceeds when collected shall be so used and not otherwise.

Section 260. KRS 162.520 is amended to read as follows:

As used in KRS 162.520 to 162.620, the following terms and words have the following respective meanings, unless another meaning is clearly indicated by the context:

(1) As used in KRS 162.540, 162.550, 162.580, 162.590, 162.600 and 162.620 "authority" means "State Property and Buildings Commission;"

(2) "Department" means the State Department of Education;

(3) [~~"Superintendent" means the superintendent of public instruction;~~

~~(4)~~] "Board of education" means the governing body of a county school district, or of an independent school district, for which the authority issues its revenue bonds pursuant to KRS 162.520 to 162.620;

***(4)***[~~(5)~~] "Project" means any undertaking to provide for a board of education any school buildings, facilities, improvements, and appurtenances and may include not only such as are authorized in KRS 162.120 to 162.300, but also those for any purpose enumerated in KRS 160.477(1)(a);

***(5)***[~~(6)~~] "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the authority as lessor and a board of education as lessee, conforming to the specifications set forth in KRS 162.140;

***(6)***[~~(7)~~] "Bonds" or "bonds of the authority" means bonds issued by the authority under KRS 162.520 to 162.620, payable as to principal and interest solely from rentals received from a board of education pursuant to a lease.

Section 261. KRS 162.990 is amended to read as follows:

Any person who violates any of the provisions of KRS 162.500 is liable to the board of education, in an action brought by the board of education, or by any citizen of the district, or by the ***chief state school officer*** [~~superintendent of public instruction~~], for the restoration of the wrongful appropriation. In addition he is guilty of malfeasance in office and upon conviction shall forfeit his office, and may for each offense be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or imprisoned from one (1) to five (5) years, or both so fined and imprisoned. One-half (1/2) of the fine shall be paid to the board of education by the collecting officer.

Section 262. KRS 163.030 is amended to read as follows:

The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~] is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by KRS 163.020, and is given all the necessary power and authority in administering vocational education and carrying out the provisions of the acts relating thereto.

Section 263. KRS 163.032 is amended to read as follows:

(1) The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in the state for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular [~~one hundred eight-five (185) day~~] school year ***as provided in KRS 158.070***. Salaries for extended employment shall be computed at the same rate as the regular pay.

(2) The Kentucky Department of Education, with assistance from the Kentucky Department of Personnel, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts

in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

(3) Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

Section 264. KRS 163.070 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 163.020, and he shall collect the money and pay it out upon the order of the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~].

Section 265. KRS 163.085 is amended to read as follows:

The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~] is authorized to purchase, lease, or erect one (1) or more buildings to be used as state vocational schools at such sites and serving such areas of the state as[~~, in~~] the [~~discretion of the~~] board ***deems***, will best meet the vocational education needs of the Commonwealth. ***The*** [~~Such~~] facilities for vocational education shall be operated in accordance with policies of the board and in accordance with the state plan for vocational education.

Section 266. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the state job training coordinating council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations and special populations to include women, the disadvantaged, the handicapped, individuals with limited English proficiency and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned [~~the~~] duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board for [~~Vocational-technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~services~~] or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for [~~Vocational-technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~services~~] and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for the handicapped; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for [~~Vocational-technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~services~~] on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for [~~Vocational-technical,~~] Adult, ***Vocational*** Education and Vocational Rehabilitation [~~services~~] on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for [~~Vocational-technical,~~] Adult***, Vocational*** Education and Vocational Rehabilitation [~~services~~] to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for [~~Vocational-technical,~~] Adult***, Vocational*** Education and Vocational Rehabilitation [~~services~~] on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for [~~Vocational-technical,~~] Adult***, Vocational*** Education and Vocational Rehabilitation [~~services~~] on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act; and

(j) Advise the Governor, the State Board for [~~Vocational-technical,~~] Adult***, Vocational*** Education and Vocational Rehabilitation [~~services~~], state job training coordinating council, the secretary of the Cabinet for Human Resources, and the secretary of ***the*** Labor ***Cabinet*** of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council is authorized to obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions and to contract for such services as may be necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state boards, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to federal grants. Such funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the Education and Humanities Cabinet to act as its fiscal agent for purposes of disbursement, accounting and auditing.

Section 267. KRS 163.087 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state vocational-technical schools and area vocational education centers shall be free to all residents of Kentucky. The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~] shall fix the rate of tuition and fees for post secondary pupils and adults who are enrolled in the state operated vocational-technical schools and area vocational education centers. The state board shall fix the rate of tuition and fees and the conditions on which post secondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of post secondary pupils and adults as may be incurred.

Section 268. KRS 163.088 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~] is authorized to provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the Department of Education in vocational schools. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in ***the*** [~~such~~] amounts [~~as~~] the ***chief state school officer*** [~~superintendent of public instruction~~] designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 269. KRS 163.089 is amended to read as follows:

(1) The ***chief state school officer*** [~~superintendent of public instruction~~] is authorized to provide medical and accident insurance for students enrolled in the state vocational-technical schools and area vocational education centers. The Department of Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state vocational-technical schools and area vocational education centers. The appropriate group coverage shall be issued by one (1) or more sureties or insurance

companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board ***for Adult, Vocational Education and Vocational Rehabilitation*** [~~of education~~], upon the recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall adopt administrative regulations to implement the medical and accident insurance program. The State Board ***for Adult, Vocational Education and Vocational Rehabilitation*** [~~of education~~] may fix the rate of fees for all secondary and post-secondary students and adults, the provisions of KRS 163.087 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board ***for Adult, Vocational Education and Vocational Rehabilitation*** [~~of education~~].

Section 270. KRS 163.120 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~] is hereby authorized to establish within the Department of Education a state vocational rehabilitation agency. This agency shall have ***the*** [~~such~~] powers and duties as contained in KRS 163.110 to 163.180 and such other functions as may be established by administrative regulation of the State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~].

Section 271. KRS 163.140 is amended to read as follows:

The State Board for ***Adult, Vocational Education and Vocational Rehabilitation*** [~~vocational-technical, adult education and vocational rehabilitation services~~], upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~], shall prescribe rules and regulations governing the services, personnel, and administration of the state vocational rehabilitation agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the ***other*** states [~~concerned~~]; may establish and supervise the operation of small businesses established pursuant to KRS 163.110 to 163.180 to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

Section 272. KRS 163.170 is amended to read as follows:

The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for vocational rehabilitation purposes upon certification by the ***chief state school officer*** [~~superintendent of public instruction~~].

Section 273. KRS 163.180 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~] is hereby authorized and empowered [~~(~~]with approval of the State Board for ***Adult, Vocational Education and Vocational Rehabilitation,*** [~~occupational education)~~] to accept and use gifts made by will or otherwise for carrying out the purposes of KRS 163.110 to 163.180. Gifts made under such conditions ***which*** [~~as~~] in the judgment of the ***chief state school officer*** [~~superintendent of public instruction~~] are proper and consistent with the provisions of KRS 163.110 to 163.180 may be so accepted and shall be held, invested, reinvested, and used in accordance with the provisions of KRS 163.110 to 163.180.

Section 274. KRS 167.017 is amended to read as follows:

(1) The superintendent of the Kentucky School for the Deaf shall be appointed by the ***chief state school officer*** [~~superintendent of public instruction~~]. The appointment shall be made upon recommendation of a search committee which shall be appointed by the State Board for Elementary and Secondary Education whenever appointment of a superintendent becomes necessary.

(2) The search committee for the superintendent of the ***Kentucky*** School for the Deaf shall consist of the representative of the state Department of Education selected by the ***chief state school officer*** [~~superintendent of public instruction~~], one (1) representative of the Kentucky Association of the Deaf, Inc., one (1) representative of the Kentucky School for the Deaf Alumni Association, Inc., one (1) representative of the Kentucky School for the Deaf faculty [~~staff~~], one (1) parent of a student at the Kentucky School for the Deaf, and one (1) representative of the Kentucky School for the Deaf advisory board. The search committee's recommendation must be approved by a majority of the State Board for Elementary and Secondary Education members.

(3) The superintendent of the Kentucky School for the Deaf may be removed from office by the State Board for Elementary and Secondary Education only by a majority vote of the State Board for Elementary and Secondary Education [~~members~~].

Section 275. KRS 167.035 is amended to read as follows:

(1) There may be established a Kentucky School for the Blind advisory board composed of five (5) members appointed by the State Board for Elementary and Secondary Education upon recommendation by the ***chief state school officor*** [~~superintendent of public instruction~~] for terms of four (4) years and until their successors are appointed. The board shall elect from its membership a chairman. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in performance of their duties.

(2) The board shall act in an advisory capacity to assist the superintendent in conducting the activities of the school.

Section 276. KRS 167.037 is amended to read as follows:

(1) There shall be established a Kentucky School for the Deaf advisory board, composed of seven (7) members appointed by the State Board for Elementary and Secondary Education upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~]. At the first regular meeting in each fiscal year, the board shall elect a chairman and vice-chairman. A member may serve no more than two (2) consecutive years as chairman. Members shall be appointed for regular terms of four (4) years[~~; with initial appointment of two (2) members for two (2) years, two (2) members for three (3) years, and three (3) members for four (4) years~~]. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in performance of their duties.

(2) Advisory board members for the Kentucky School for the Deaf shall be selected from nominations submitted by the Kentucky Association of the Deaf Inc., the Parent-Teacher-Cottage Parent Association, the Kentucky School for the Deaf Alumni Association Inc., and the ***chief state school officer*** [~~superintendent of public instruction~~]. Membership on the board shall be statewide and shall consist of two (2) parents of deaf children, one (1) professional in education of the deaf, one (1) former student of the Kentucky School for the Deaf, one (1) member of the Kentucky Association for the Deaf, and two (2) members at large.

(3) The board shall act in an advisory capacity to assist the school superintendent in conducting the activities of the school. The board shall also make recommendations to the ***chief state school officer*** [~~superintendent of public instruction~~] concerning all areas relating to the effective operation of the school, including but not limited to:

(a) Goals and objectives,

(b) Budget requests,

(c) Student services,

(d) Public relations,

(e) Construction and maintenance, and

(f) Program evaluation.

Section 277. KRS 167.150 is amended to read as follows:

The State Board for Elementary and Secondary Education upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~] may prescribe admission policies, curriculum and rules for the government and discipline of pupils who attend the Kentucky School for the Blind or the Kentucky School for the Deaf and fix and regulate tuition fees and terms of admission of pupils into the facilities from other states, but no charge shall be made for the admission of pupils from this state.

Section 278. KRS 167.250 is amended to read as follows:

(1) The ***chief state school officer may*** [~~superintendent of public instruction is authorized to~~] provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the Department of Education for the transportation of members of the student bodies of the Kentucky School for the Blind, the Kentucky School for the Deaf and the Eastern Kentucky Comprehensive Rehabilitation Center at Thelma. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence ***in*** [~~to~~] such amounts as the ***chief state school officer*** [~~superintendent of public instruction~~] designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 279. KRS 168.040 is amended to read as follows:

The authority shall consist of nine (9) members, as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~], ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until [~~such time as~~] the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the ***chief state school officer*** [~~superintendent of public instruction~~] as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the ***chief state school officer*** [~~superintendent of public instruction~~] by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on Higher Education; five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

Section 280. KRS 168.050 is amended to read as follows:

(1) The terms of the members other than the ***chief state school officer*** [~~superintendent of public instruction~~] and the member appointed from the staff or personnel of the department shall be originally, two (2) members for a term of four (4) years; two (2) members for a term of three (3) years; two (2) members for a term of two (2) years; and one (1) member for a term of one (1) year, to be determined by lot at the first meeting.[~~,~~] Thereafter the terms shall be for four (4) years.

(2) In addition to vacancies from death or resignation, vacancies shall occur upon removal of permanent residence from the Commonwealth; in the case of the elected member representing the department and the board, by change of assignment or by severance from relationship with the department or the board for any reason; and, in the cases of the members representing the University of Kentucky and the state colleges, by termination of the member's membership on the council for any reason. Vacancies during the term of any member shall be filled for the unexpired portion of the term only; and vacancies of elected or appointed members by reason of the expiration of the term shall be for terms of four (4) years each, in the same manner as the initial election or appointment, as the case may be.

(3) Elected or appointed members shall be eligible for re-election or re-appointment for any number of terms, as long as the prescribed qualifications prevail.

Section 281. KRS 168.060 is amended to read as follows:

(1) The authority shall meet not less frequently than quarterly, and otherwise as often as necessary for the orderly conduct of its affairs. If it sees fit to do so, it may establish in its bylaws, or by resolution, four (4) or more fixed dates for regular meetings at one (1) or more specified places, in which event any proper business may come before the authority on such occasions, and it shall not be necessary that the members be given notice thereof unless the chairman shall deem it necessary or desirable that the day, place or hour be changed, whereupon notice to such effect shall be mailed to each member by the chairman or secretary, by ordinary first-class mail, postage prepaid, not less than one (1) week in advance. Regular meetings may be adjourned to convene again at another time and place, if the facts are shown in a motion or resolution adopted by a majority of those present and entered upon the minutes; and if such be done, the adjourned session shall constitute a continuation of the regular session without notice to absent members; but the motion or resolution of adjournment may specify that every reasonable effort be made to give such notice to absent members as time and circumstances may permit, whereupon the secretary (or in his absence the chairman or any designated member) shall make such effort and report the same and the success or failure thereof as to each member, at the occasion of the adjourned session of the regular meeting. Special meetings may be called by the chairman, vice-chairman, secretary, or any two (2) members upon notice of the time, place and business to be transacted, similarly given; and special meetings may be adjourned in like manner as in the case of regular meetings, except that the matters considered shall be limited to such as are set forth in the notice of the special meeting.

(2) Any member may waive notice orally or in writing at any time before, at or after any meeting; and the presence of a member at any meeting shall constitute a waiver of notice unless such member tenders at such meeting a written protest on the ground of want of sufficient notice.

(3) Five (5) or more members shall constitute a quorum for the transaction of business at any meeting, and a majority vote thereof shall be sufficient to transact any business properly before the meeting. Any lesser number may adjourn to reconvene at another time for failure to muster a quorum.

(4) Immediately upon receiving notice of the election or appointment of all other members, the ***chief***

***state school officer*** [~~superintendent of public instruction~~] shall call a meeting for organizational purposes, [~~the same~~] to be held at Frankfort, Kentucky, at a time and place set forth in a written notice mailed to each member, as set forth above. At ***this*** [~~such~~] meeting, the ***chief state school officer*** [~~superintendent~~] shall preside as temporary chairman, and the authority shall elect from among the members a chairman, a vice-chairman, a secretary and a treasurer, and define the duties thereof; or it may combine the office of treasurer with any other office of the authority or with any position created pursuant to KRS 168.080.

## PART V - REPEAL AND REENACTMENTS

### SECTION 282. KRS 56.440 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the State Property and Buildings Commission;

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto;

(3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery or devices for the purpose of establishing, developing or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only (except for industrial development projects) if used or to be used by the Commonwealth of Kentucky or one of its departments or agencies (not including independent municipal corporations or political subdivisions);

(4) "Building project" includes the acquisition of any real estate and the acquisition, construction, reconstruction and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities and furnishings of a permanent nature for buildings; the purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable; and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one of its departments or agencies, not including any independent municipal corporation or political subdivision, or any other capital outlay program authorized by appropriations acts or other legislation;

(5) "Industrial development project" means and includes the acquisition of any real estate and the construction, acquisition and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of such real estate for conveyance to or lease to industrial entities to be used for manufacturing, processing or assembling purposes, including surveys, site tests and inspections, sub-surface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communication and other similar facilities, off-site construction of utility extensions to the boundaries of such real estate, construction and installation of buildings including buildings to be used for worker training and education, rail facilities, roads, sidewalks, curbs and other improvements to such real estate necessary to its manufacturing, processing or assembling use by industrial entities; provided that an industrial entity must have agreed with the commission, prior to the financing of an industrial development project, to develop, in conjunction with such industrial development project, manufacturing, processing or assembling facilities satisfactory to the commission;

(6) "Industrial entity" means any corporation, partnership, person or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing or assembling facility on the site of an industrial development project financed pursuant to this chapter;

(7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount of money which is equal to all tax revenues received by the Commonwealth, as taxing entity, during such fiscal year in respect of an industrial development project and improvements and equipment thereon and the products thereof, and activities carried out by the occupants and users of such industrial development project, minus an amount equal to all tax revenues received by the Commonwealth, as taxing entity, in respect of the site of the industrial development project and the same type of taxable properties and activities during the fiscal year immediately preceding the fiscal year during which construction of the improvements undertaken by an industrial entity as a result of the financing of such industrial development project commenced. Incremental taxes shall include such tax revenues as state corporate income taxes, state income taxes paid by employees of manufacturing, processing and assembling facilities developed on the site of an industrial development project, state property taxes, state corporation license taxes and state sales and use taxes, but shall not include any taxes levied specifically for educational purposes;

(8) "State agency" means any state administrative body, agency, department or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state but which is not an independent municipal corporation or political subdivision;

(9) "Cabinet" means the Finance and Administration Cabinet;

(10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite;

(11) "Asbestos-containing material" means any material which contains more than one percent (1%) asbestos by weight; and

(12) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

SECTION 283. KRS 56.467 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The commission shall exercise the powers prescribed by KRS 162.520, 162.540, 162.550, 162.580, 162.590, 162.600 and 162.620 for the purpose of assisting boards of education of any county or independent school district in financing public school building projects and undertakings.

SECTION 284. KRS 56.495 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The boards of regents of the respective state colleges or universities and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state college or of the university shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents or attorneys. The request shall include a general description of the project and its need, use, location, approximate size and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

SECTION 285. KRS 56.513 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) When the State Property and Buildings Commission makes a determination, in accordance with the provisions of this chapter, that one (1) or more building projects or industrial development projects will be financed by the issuance of revenue bonds, then in anticipation of such financing the commission may borrow money to provide interim financing therefor and issue in evidence thereof its revenue bond anticipation notes, bearing interest at a rate or rates not exceeding the maximum rate permitted for the issuance of such bonds. Such interim financing may be entered into for the commission's own projects, for those of the University of Kentucky and the state colleges or universities or for any other agency of the Commonwealth where approval by the commission is required regarding the issuance of revenue bonds of such an agency. In instances where the revenue bonds involved are to be issued by other agencies, such agencies, with the prior approval of the commission, may borrow money in the same manner and for the same purpose and issue in evidence thereof their own revenue bond anticipation notes, according to rules and regulations promulgated by the commission.

(2) The commission shall solicit proposals for such interim financing from at least three (3) responsible lenders, and shall select in its discretion the best of such proposals consistent with sound financial practices. A selection may be made even though less than three (3) proposals are received. The term of any such revenue bond anticipation note shall not exceed five (5) years; and the same may be renewed, if necessary.

(3) Each revenue bond anticipation note may include prepayment provisions which will allow the commission or other borrowing agency to prepay the loan after giving reasonable notice to the lender; shall identify the revenue bond issue from the proceeds of which the note or notes and any interest thereon are to be paid; and shall include a statement that the note is being issued in anticipation of the identified revenue bond issue, and that neither the note, nor the interest thereon, shall constitute or evidence an indebtedness of the Commonwealth of Kentucky. Each such note and the interest thereon (to any extent not previously paid from other sources) shall be paid from the proceeds of the identified revenue bond issue, when such proceeds have been received and are available.

(4) Instead of borrowing money and issuing revenue bond anticipation notes in the full amount necessary for construction contract purposes, the commission (or such agencies with the prior approval of the commission and according to its rules and regulations), may enter into loan agreements with one or more lenders (determined by the commission to be responsible) according to the terms of which it may be agreed:

(a) That the lender will continuously make available to the borrowing agency a stated maximum amount of money for a stated period of time;

(b) That the borrowing agency may demand and obtain cash advances against such commitment from time to time upon reasonable and agreed notice, and upon issuing in evidence of each advance a bond anticipation note which will bear an agreed rate of interest, not exceeding the maximum rate permitted for the issuance of the proposed bonds; and

(c) That in consideration of the making of such loan agreement the borrowing agency will pay to the lender or lenders a commitment fee determined by the commission to be reasonable according to financial conditions existing at the time the loan agreement is made.

Such loan agreements may be recorded as receivables upon the books of account of the commission, the secretary of the Finance and Administration Cabinet, or other borrowing agency, and construction contracts may be awarded against the same to the amount of money which the lender contractually agrees to make available to the borrowing agency, the same as in the case of loan agreements made with departments or agencies of the United States government.

(5) Each revenue bond anticipation note issued according to this section, and the receipt of interest thereon, shall be exempt from all taxation by the Commonwealth and all of its subdivisions, municipalities and taxing authorities; and this may be stated as a representation in the text of each such revenue bond anticipation note.

(6) The state Property and Building Commission and other state agencies authorized to issue revenue bond anticipation notes under the terms of this section may as an alternative and if authorized to do so by the governing body of such commission or agency, adopt the procedures for interim financing established for counties, cities, and other municipal corporations, or their agencies, by KRS 58.150.

SECTION 286. KRS 56.520 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The commission may issue and sell revenue or other authorized bonds, in carrying out the provisions of this chapter, in denominations and amounts, as is deemed to be for the best interest of the Commonwealth, for any of the following purposes:

(a) To acquire real estate for state governmental use;

(b) To pay all or any part of the expense or cost of or incidental to a building project for state governmental use;

(c) To defray the cost of plans, specifications, blueprints, architectural fees and other expenses authorized to be incurred for state governmental use.

(2) The payment of bonds issued, together with the interest thereon, may be secured by a pledge and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Neither the payment of any bond, nor the interest thereon issued under the authority of KRS Chapter 56, shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any bond or interest thereon be payable out of any fund except funds derived from rentals or other revenues derived from the operation of the properties or from revenues as are available for the purpose by law.

(3) All competitive bids for the sale of revenue bonds shall be opened and read publicly by the secretary of the Finance and Administration Cabinet or his representative at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(4) In the event the commission issues and sells bonds for a building project as authorized by KRS Chapter 56, insurance, including fire and windstorm, casualty, catastrophe, use and occupancy and such other insurance as the commission may deem advisable, shall be carried in connection with the building project, and it may so obligate and bind itself in a trust indenture securing the payment of the bonds. Any insurance shall be paid for out of funds available for the project.

(5) As provided in KRS 42.500(10), the commission may invest proceeds from the sale of its revenue or other authorized bonds as follows:

(a) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;

(b) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Banks, the Federal Home Loan Bortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmer's Home Administration, the United States Postal Services;

(c) Obligations for the Commonwealth of Kentucky;

(d) Bonds and notes of any state or local government or public authority;

(e) Savings certificates issued by any federal savings and loan association if any principal amount of the certificate in excess of the amount insured by the federal government or any agency thereof, is fully collateralized;

(f) Prime quality commercial paper bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, if the accepting bank or its holding company is either incorporated in the Commonwealth of Kentucky or has outstanding publicly held obligations bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations;

(h) Participating share in a mutual fund for local government investment;

(i) A commingled investment pool established and administered under KRS 66.480;

(j) Evidences of ownership of or fractional undivided interests in future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian;

(k) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States or entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a federal reserve bank, or any commercial bank, trust company or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if:

1. Such obligations that are subject to the repurchase agreement are delivered in physical or in book entry form to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a safekeeping receipt issued by a depository satisfactory to the local government or public authority. The repurchase agreement shall provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;

2. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedure, conforming to the extent practicable with federal regulations and satisfactory to the local government or public authority, have been established for the benefit of the local government or public authority or its assignee;

3. The securities are free and clear of any adverse third party claims; and

4. The repurchase agreement is in a form satisfactory to the local government or public authority; and

(l) Guaranteed investment contracts with a bank or insurance company, if the bank or insurance company bears one (1) of the two (2) highest ratings of at least one (1) nationally recognized rating service and does not bear a rating below one (1) of the two (2) highest ratings by any nationally recognized rating service.

SECTION 287. KRS 56.550 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Nothing in KRS 56.440 to 56.540 shall be construed to apply to the construction of roads or bridges or the acquisition of rights of way or real estate in connection therewith now under the jurisdiction of the Department of Highways or the Turnpike Authority of Kentucky, or for any other expenditure made from the state road fund or by said turnpike authority.

(2) Except as provided by KRS 56.467, 162.520 to 162.620, nothing in KRS 56.440 to 56.540 shall be construed to apply to school districts, or to affect the rights, powers and duties of the governing authorities of such districts; provided, however, that the acquisition of sites, and the acquisition, purchase, construction, leasing and operation of television or related facilities as an aid to education or as an aid to any other proper

public function, shall be deemed to be matters of statewide jurisdiction and interest, and any or all of such activities on the part of the commission shall not be deemed to constitute encroachment upon the authority of any school district.

SECTION 288. KRS 58.150 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) When the governing body of any county, city, or other municipal corporation, or agency thereof, shall make a determination that, in accordance with the provisions of any section of the statutes authorizing it to issue revenue bonds, assessment bonds, or mortgage bonds to finance any project, it will finance such a project by the issuance of such bonds, then in anticipation of such financing such governing body may provide for the interim financing of such project by the sale and issuance of revenue bond, assessment bond, or mortgage bond anticipation notes, as the case may be, bearing interest at a rate or rates not exceeding the maximum rate permitted for the issuance of the bonds so anticipated, and payable within a specified period of time only from the proceeds of such bonds, when issued, or from such revenues or income of the project as may be available prior to or at maturity of the notes; provided that the initial term of such notes shall not be in excess of five (5) years from the date thereof. The terms "revenue bond," "assessment bond," and "mortgage bond" are used herein as defined in subsection (1) of KRS 58.170, except that a school district shall not be excluded from said definition if it is authorized by the State Board for Elementary and Secondary Education, by general or special authorization, to proceed under the authority of this section or KRS 56.513 through the agency of the appropriate city or county.

(2) The notes authorized herein shall be sold in the same manner as the bonds in anticipation of which they are issued, except that when the principal amount of such notes does not exceed one million dollars ($1,000,000) the provisions of KRS 424.360 for advertisement of such notes in a publication having general circulation among bond buyers shall be inapplicable, and the other publications required by said section shall be deemed sufficient.

(3) Each bond anticipation note may include prepayment provisions which will allow the issuing authority to prepay the note after giving reasonable notice to the holder thereof; shall identify the bond issue from the proceeds of which the note or notes and any interest thereon are to be paid; and shall include a statement that the note is being issued in anticipation of the identified bond issue, and that neither the note, nor the interest thereon, shall constitute or evidence an indebtedness of the issuing authority. Each such note and the interest thereon, to the extent not previously paid from other sources, shall be paid from the proceeds of the identified bond issue, when such proceeds have been received and are available; provided, however, that payment from the revenues of the project, for the financing of which the said bonds will eventually be issued, shall be permitted, and provision shall be made for payment of that portion of the principal of any note issue which represents the principal of the proposed bonds scheduled to mature on or prior to the maturity of said notes.

(4) The notes authorized herein may be issued in a principal amount sufficient to include all interest due on said notes at or prior to maturity, if such notes shall be issued for a term of three (3) years or less, and said notes may be sold at a discount representing the interest due to the purchaser thereof during said term.

(5) When, prior to the maturity of any notes issued under the authority of this section or KRS 56.513, the governing body of the issuing authority shall make a determination that by reason of construction delays, changes in plans, uncertainties in the bond market, or other causes justifying delay in the final offering of the bond issue, said bond issue should not immediately be offered, renewal notes may be issued subject to the same limitations contained in this section or KRS 56.513 relative to the original issue of notes, and the proceeds of the sale of said renewal notes shall be applied to the payment of the principal of the notes originally issued, or any prior issue of renewal notes, or to the payment of interest due or to become due on the notes or renewal notes; provided, however, that the interest (including discount, if any) payable from the proceeds of notes or renewal notes shall not exceed an amount equal to three (3) years interest from the date of the original notes at the rate per annum established for the original notes.

(6) Counties, cities, and other municipal corporations, or agencies thereof, in the discretion of the governing body in each case, may, as an alternative to this section and for interim financing purposes, solicit proposals, issue bond anticipation notes, and make commitment agreements in the same manner as provided for the State Property and Buildings Commission by KRS 56.513; provided, however, that in the case of notes issued on behalf of a school district, general or special approval of the State Board for Elementary and Secondary Education shall be required in substitution for the approval of the State Property and Buildings Commission; and provided further, that the approval of the State Property and Buildings Commission will not be required for any issue of a county, city or other municipal corporation, or any agency thereof, and references to the commission shall be interpreted to be references to the governing body of the issuing authority.

(7) Nothing herein shall be deemed to invalidate any bond anticipation notes sold or issued under general statutes prior to the adoption of this section and KRS 56.513.

(8) Each bond anticipation note issued according to this section or KRS 56.513, and the receipt of interest thereon, shall be exempt from all taxation by the Commonwealth and all of its subdivisions, municipalities and taxing authorities; and this may be stated as a representation in the text of each such bond anticipation note.

SECTION 289. KRS 58.410 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) As used in KRS 58.410 to 58.440, unless the context otherwise requires:

(a) "Public body" means the Commonwealth, its political subdivisions, its municipalities, its school and other taxing districts, its nontaxing public bodies and institutions, and any and all agencies and instrumentalities thereof, whether such agencies or instrumentalities be now existing or hereafter created and established under and pursuant to specific statutory authority, or whether such agencies or instrumentalities be now existing or hereafter organized, established and caused to exist as nonprofit corporations under applicable general laws, having performance as such agencies or instrumentalities as their sole corporate purposes;

(b) "Public obligation" means bonds, notes, warrants or other obligations of any public body;

(c) "Rate of interest" means both the coupon or stated interest rate applicable to any public obligation, and the effective interest rate or interest cost percentage, computed upon the basis of the coupon or stated interest rate or rates and the price actually to be received by the issuing public body; provided, however, KRS 58.410 to 58.440 is not intended, and shall not be construed, to amend, alter or repeal any existing law requiring that certain public obligations be sold at not less than the face amount thereof.

(2) KRS 58.410 to 58.440 does not relate to or affect borrowing by any person or corporation except such as are within the definition of "public body" as set forth in this section.

SECTION 290. KRS 58.420 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

It is hereby determined and declared to be the public policy of the Commonwealth that interest rates payable by public bodies upon public obligations be such as to be competitive with those rates which are permitted by other states, in order that necessary public projects may be financed and may be undertaken in the interest of the public health, safety and general welfare.

SECTION 291. KRS 58.430 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

From and after March 9, 1970, notwithstanding any other acts or laws of other import which may presently prevail, wherever the same may be found in the Kentucky Revised Statutes as of such date, it shall be lawful for public bodies to establish, agree and bind themselves to pay interest upon their public obligations at any rate or rates which may be determined upon by the governing bodies of the respective public bodies which are the issuers thereof; but subject, nevertheless, to such approvals as may now or hereafter be applicable thereto according to law.

SECTION 292. KRS 58.440 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If any public body shall determine:

(1) That financing of a public project may be accomplished to the best advantage in the public interest only by combining the same with refinancing of previously issued and outstanding public obligations at a rate or rates of interest higher than the rate or rates otherwise applicable thereto;

(2) That refinancing of a public project at a higher interest rate or rates is necessary in order to prevent or anticipate default in payment of interest or principal of public obligations with regard thereto; or

(3) That any combination of the circumstances described in subsection (1) or (2) of this section exists;

then such refinancing is recognized to be lawful; provided, however, that prior to any such refinancing at a higher rate or rates of interest, the issuing public body shall make and spread at large upon its public records its determination that such action is necessary or desirable in the public interest, and its reasons therefor.

SECTION 293. KRS 64.590 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In the case of any political subdivision or local governmental unit or district other than a county or city, having a governing body or authority composed of more than one (1) member, such governing body or authority shall fix the compensation of every officer and employee of the political subdivision, local governmental unit or district whose compensation is payable from the funds of the political subdivision, governmental unit or district, except that in the case of officers elected by popular vote the same limitations and restrictions shall apply as are applicable under KRS 83A.070 to the fixing of compensation of city officers elected by popular vote. Nothing in this section is intended to confer any power on any governing board or authority, with respect to the compensation of its own members, that it does not specifically possess under other statutes. This section applies to school districts, but is not intended to supersede any present provision of law relating to the fixing or payment of the compensation of teachers.

SECTION 294. KRS 66.210 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No county, city or taxing district shall issue and offer to sell any of its bonds or obligations until the issuance thereof has been approved as provided in KRS 66.310, where applicable to a county, or by a circuit court of competent jurisdiction, declaring the bonds or obligations are based upon and cover a valid indebtedness of the county, city or taxing district within the constitutional limitation governing the creation of the indebtedness. Any bond sold, assigned or transferred without being so approved in advance of its issuance is void, and shall not thereafter, directly or indirectly, be assumed or paid by the county, city or taxing district.

SECTION 295. KRS 66.220 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The court shall not approve any bond or obligation of a county, city or taxing district unless and until the county, city or taxing district has alleged and proved that the indebtedness which the bond or obligation is intended to evidence was created within the constitutional limitation governing it, and has set forth in appropriate pleading every item of indebtedness created and existing or unpaid and owing by the county, city or taxing district during the period of time in which the indebtedness was created and which the proposed bond or obligation is intended to cover. If it appears in the action that the officials of the county, city or taxing district in office at the time the indebtedness was created did not have due regard for the finances of the county, city or taxing district, during the time in which the indebtedness was created, the court shall not have the power to approve the bond issue. On all disputed issues in the action the burden of proof shall be on the county, city or taxing district.

(2) If any judgment is rendered against a county, city or taxing district and an action is brought under KRS 66.210 to refund any indebtedness evidenced by the judgment, a copy of the judgment and of the pleadings and proof in the action in which it was rendered, shall be made a part of the petition in the action to have the bonds approved, and unless such judgment, pleadings and proof clearly establish that the indebtedness of the county, city or taxing district does not exceed the limit fixed by Section 158 of the Constitution, the court shall not have jurisdiction to approve the bond issue. No such judgment rendered against a county, city or taxing district declaring the amount of its indebtedness shall be received as evidence in any court unless the pleadings and proof upon which it was entered clearly establish that the indebtedness of the county, city or taxing district, as shown by the judgment, does not exceed the limit fixed by Section 158 of the Constitution.

(3) This section and KRS 66.210 are retroactive and apply to proceedings to fund prior floating indebtedness.

SECTION 296. KRS 66.480 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The governing body of a municipality, county, school district (provided that its general procedure for action is approved by the State Board for Elementary and Secondary Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities. Such investments may be accomplished through repurchase agreements reached with national or state banks chartered in Kentucky;

(b) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(c) Any savings and loan association insured by an agency of the government of the United States up to the amount so insured; and

(d) Interest-bearing deposits in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts, providing such bank shall pledge as security, obligations as permitted by KRS 41.240(4), having a current quoted market value at least equal to any uninsured deposits. No municipality, county, school district, other unit of local government, political subdivision or county official shall make any investment which would jeopardize the tax-exempt status of any outstanding obligation of such unit of local government.

(2) Sheriffs, county clerks and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320 and 160.510, in the investment instruments permitted by subsection (1) of this section.

(3) The provisions of this section are not intended to impair the power of a county official, municipality,

county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(4) The governing body or county official may delegate the investment authority provided by subsection (1) of this section to the treasurer or other financial officer charged with custody of the funds of the local government, and such officer shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(5) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(6) The state local finance officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to such county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request such assistance.

(7) (a) The state local finance officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local finance officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local finance officer creates an investment pool, he shall establish an account in the treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local finance officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(c) and (d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(8) (a) With the approval of the State Board for Elementary and Secondary Education, local boards of education, or such of them as may desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the State Board for Elementary and Secondary Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The State Board for Elementary and Secondary Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings and assignment of charges.

SECTION 297. KRS 68.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under subsection (1) of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under subsection (1) of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the Property Valuation Administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

SECTION 298. KRS 96.179 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In lieu of taxes, the board may each year pay to each school district and municipality in which its property is located an amount equivalent to an annual ad valorem tax on the fair cash value of the property of the board located in each such jurisdiction, determined upon the tax rate prevailing in such year.

SECTION 299. KRS 96.895 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by section 13 of the Tennessee Valley Authority Act as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates, provided, however, each public school district for the purposes of this calculation shall have their tax rate increased by thirty (30) cents.

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennessee Valley Authority, the Kentucky Revenue Cabinet shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The Revenue Cabinet shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

(a) Were in existence when title to the land on which they are situated was acquired by the United States; or

(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the Revenue Cabinet for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after September 30, 1985 from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended.

SECTION 300. KRS 117.315 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than seven (7) days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four (4) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, ***and*** shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

(2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the Court of Justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writng signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(4) Except as provided in KRS Chapter 242, not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested, to each committee not less than twenty (20) days immediately, preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of such committees shall be recognized as the one (1) to select inspectors and challengers at the election.

(5) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

SECTION 301. KRS 117.995 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for special ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be confined in the penitentiary for not less than one (1) nor more than five (5) years.

(3) Any officer who willfully or neglectfully fails to prepare or furnish ballot labels or special ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be confined in the penitentiary for not less than one (1) year nor more than three (3) years.

(5) Any person who signs a name other than his own on an application for a special ballot or on the verification form for such ballot, or any person who votes a special ballot other than the one (1) issued in his name, or any person who applies for such ballot for the use of anyone other than himself or such person as shall be designated by the provisions of this chapter, or any person who makes a false statement on an application for a special ballot shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both.

(6) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day, after he has been duly notified of such provisions by the sheriff of the election precinct, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both.

(7) Any person who shall have been selected to serve as an election officer but who shall knowingly and wilfully fail to serve and who is not excused by the county board of elections as provided in this chapter shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and shall be ineligible to serve as an election officer for a period of five (5) years.

(8) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate voter assistance form shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

SECTION 302. KRS 118.315 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(4), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class or to candidates participating in nonpartisan elections.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. Each petitioner shall include his residence, Social Security number and post-office address. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers are legally qualified, to vote for the candidate. Except for municipal, school board and supervisor of soil and water conservation district races, ***the*** petition may designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The State Board of Elections shall prescribe the forms for the petition.

SECTION 303. KRS 118.365 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not less than sixty-eight (68) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file such statements as are required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not less than sixty-eight (68) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to three (3) months before the general election, shall be filed by such petitions not later than sixty-eight (68) days prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not less than one hundred twenty (120) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not less than sixty-eight (68) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than sixty-eight (68) days prior to the date fixed by law for the election of such electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

SECTION 304. KRS 132.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall

the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

| Acres | Annual Gross Income + | Income Per Acre |
|---|---|---|
| 10 to 30 | $1,000 + | $60.00 per acre, or a fraction thereof, over 10 acres. |
| 30 to 60 | $2,200 + | $40.00 per acre, or a fraction thereof, over 30 acres. |
| 60 to 100 | $3,400 + | $25.00 per acre, or a fraction thereof, over 60 acres. |
| 100 to 250 | $4,400 + | $10.00 per acre, or a fraction thereof, over 100 acres. |
| Over 250 | $5,900 + | $5.00 per acre, or a fraction thereof, over 250 acres. |

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

| Acres | Annual Gross Income + | Income Per Acre |
|---|---|---|
| 5 to 30 | $1,000 minimum, or | $100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater. |
| 30 to 60 | $3,000 + | $50.00 per acre, or a fraction thereof, over 30 acres. |
| 60 to 100 | $4,500 + | $25.00 per acre, or a fraction thereof, over 60 acres. |
| 100 to 250 | $5,500 + | $10.00 per acre, or a fraction thereof, over 100 acres. |
| Over 250 | $7,000 + | $5.00 per acre, or a fraction thereof, over 250 acres. |

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent

foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

SECTION 305. KRS 132.011 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Every organization which has qualified for exemption under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and whose charitable activities constitute more than an incidental part of the organization's overall activities, shall be, for Kentucky tax purposes, an institution of purely public charity and its property shall be exempt from all state, county, district, city and school taxes.

SECTION 306. KRS 132.017 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027 and 160.470, shall go into effect forty-five (45) days after its passage. If during the forty-five (45) days next following the passage of the order, resolution, or motion a petition signed by a number of registered and qualified voters equal to ten percent (10%) of the voters voting in the last presidential election is presented to the county clerk or his authorized deputy, or to the county fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be, protesting against passage of the ordinance, order, resolution, or motion, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (2) of this section. If such petition is presented to the county clerk or his authorized deputy, such officer shall immediately notify the presiding officer of the appropriate fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. The board or boards of registration in the county shall give necessary and appropriate aid to the county clerk so that such officer may make the conclusive determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(b) The county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending such ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. Such action by the county fiscal court, district board of education, legislative body of a city, urban-county government or other taxing district shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(2) (a) In the event an election is necessary under the provisions of subsection (1) of this section, the county fiscal court or legislative body of a city, urban-county government or other taxing district shall cause to be submitted to the voters of the county, district, or urban county at the next regular election, the question

as to whether such property tax rate shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect.

(b) In the event an election is necessary for a school district under the provisions of subsection (1) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than twenty (20) days nor more than thirty (30) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether such property tax rate shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order, resolution, or motion shall not go into effect, and the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district, as the case may be. If a majority of the votes cast upon the question favor its passage, the order, resolution, or motion shall go into effect. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) Notwithstanding any statutory provision to the contrary, in the event that a city, county, school district or other taxing district has not established a final tax rate as of September 15, due to the recall provisions of KRS 68.245, 132.017, 132.027 or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by such date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(4) In the event a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(5) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

SECTION 307. KRS 132.018 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If the tax rate applicable to real property levied by a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district is reduced as a result of reconsideration by the county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district under the provisions of KRS 132.017(1)(b), the tax rate applicable to personal property levied under the provisions of KRS 68.248(1), 132.024(1), 132.029(1) and 160.473(1) shall be reduced by the respective county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

(2) If the tax rate applicable to real property levied by a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district is reduced, under the provisions of KRS 132.017(2)(b), as a result of a majority of votes cast in an election being opposed to such a rate, the tax rate applicable to personal property levied by the respective county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district shall be reduced, without further action by the levying body, to an amount which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property resulting from the reduced tax rate applicable to real property.

SECTION 308. KRS 132.020 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (31-1/2) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm

machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents (15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15) upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto; and

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars ($100) of assessed value.

(6) Thirty cents (30¢) of the thirty-one and one-half cents (31-1/2¢) state tax rate on real property and thirty cents (30¢) of the forty-five cents (45¢) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (30¢), as certified by the department of education, the direct payments shall be reduced proportionately.

(7) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(8) By July 1 each year, the Revenue Cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(9) In the event that the tax rate set by the cabinet as provided in subsection (8) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(10) An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

| Calendar Year | Rate per $100 of Assessed Value |
|---|---|
| 1982 | $.225 |
| 1983 | $.1125 |
| 1984 and after | $.001 |

(11) Effective on or after January 1, 1986, an ad valorem tax for state purposes of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials and in-process materials held for incorporation in finished goods held for sale in the regular course of business.

(12) An ad valorem tax for state purposes of one tenth of one-cent ($0.001) per one hundred dollars ($100) of assessed value shall be paid on all motor vehicles registered pursuant to the provisions of KRS 186.050(6).

SECTION 309. KRS 132.023 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) Notwithstanding any statutory provisions to the contrary, no taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.

(b) In succeeding years, no taxing district other than the state, counties, school districts, cities and urban-county governments shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment, except for a taxing district which has been authorized to levy a tax and has not yet levied any such tax rate. In which case, the district can levy a tax rate, the maximum which will not produce more revenue than would have been produced by application of the maximum authorized tax rate in the year authorized to that year's assessments.

(2) No taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate within the limits imposed in subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (3) of this section.

(3) (a) A taxing district, other than the state, counties, school districts, cities, and urban-county governments, proposing to levy a tax rate within the limits of subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published at least twice in two consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(4) (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities and urban-county governments which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state, counties, school districts, cities and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

SECTION 310. KRS 132.024 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In the event that the tax rate applicable to real property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the tax rate levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments.

(2) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.023(3) and to the recall provisions of KRS 132.023(4).

SECTION 311. KRS 132.025 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In the event that the tax rate levied by an action of a taxing district, other than the state, counties, school districts, cities, and urban-county governments, for 1979-80, 1980-81 or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81 and 1981-82. Such a tax rate may be in addition to the tax rate levied under the provisions of KRS 132.024.

(2) The tax rate levied under the provision of KRS 132.024 and subsection (1) of this section shall not exceed the tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments, in 1981-82.

(3) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments shall not be subject to the public hearing provisions of KRS 132.023 (3) and to the recall provisions of KRS 132.023 (4).

SECTION 312. KRS 132.027 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) Notwithstanding any statutory provisions to the contrary, no city or urban-county government shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.

(b) In succeeding years, no city or urban-county government shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment.

(2) No city or urban-county government shall levy a tax rate within the limits imposed in subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010 until the city or urban-county government has complied with the provisions of subsection (3) of this section.

(3) (a) Cities or urban-county governments proposing to levy a tax rate within the limits of subsection (1) of this section which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The city or urban-county government shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(4) (a) That portion of a tax rate levied by an action of a city or urban-county government which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The city or urban-county government shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the city or urban-county government has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall, and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

SECTION 313. KRS 132.030 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Every person having on September 1 of any year a deposit in any bank, trust company or combined bank and trust company organized under the laws of this state, or in any national bank of this state, shall pay an annual tax to the state equal to one-thousandth of one per cent (.001%) upon the amount of the deposit, and no deduction therefrom shall be made for any indebtedness. The tax shall be paid to the Revenue Cabinet, by the bank or company with which the deposit is made, as the agent of the depositor, on or before November 1 next following the date of the report provided for in KRS 132.040.

(2) No other tax shall be assessed by the state or any county, city or other taxing district on such deposits or against the depositor on account of such deposits.

SECTION 314. KRS 132.130 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Effective January 1, 1967, every owner, proprietor, or custodian of a bonded warehouse or of premises under the control and supervision of the United States internal revenue service, in which distilled spirits are stored shall between January 1 and February 1 of each year file with the Revenue Cabinet a report sworn to by him showing the quantity and kind of distilled spirits in the bonded warehouse or premises as of January 1 of that year; the quantity and kind of spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises for transfer in bond out of this state during the preceding twelve (12) months; the county, city, and taxing district in which such distilled spirits were certified for taxation; the fair cash value of the distilled spirits estimated at a price it would bring at a fair voluntary sale; and such other facts pertaining to the distilled spirits as the cabinet may require.

(2) On January 1, May 1, and September 1, after the federal tax has been paid or becomes due, or after any of the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state, every owner, proprietor, or custodian of a bonded warehouse or premises in which distilled spirits are stored upon which taxes have accrued on assessments prior to January 1, 1967, shall file with the Revenue Cabinet and the county clerk, in which county the distilled spirits were at the time of the assessment, a statement, sworn to by him, showing the quantity of the distilled spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises or transferred in bond out of this state during the preceding four (4) months; the years in which such distilled spirits were assessed for taxation; and the county, city, or taxing district in which the distilled spirits were stored at the time of the assessment. At the same time, all taxes and interest on such distilled spirits due the state, county, or other taxing district shall be paid to the officers entitled to receive them. The report required by this section shall be made whether or not any distilled spirits are stored in the bonded warehouse or premises at the time the report is due.

SECTION 315. KRS 132.140 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, and keep a record of its valuations and assessments. The cabinet shall immediately notify the owner or proprietor of the bonded warehouse or premises of the amount fixed.

(2) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the cabinet shall ascertain the necessary facts required to be reported. For that purpose the cabinet shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.

(3) The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

SECTION 316. KRS 132.150 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Immediately after the valuation of the distilled spirits has been finally fixed, the cabinet shall certify to the county clerks of the respective counties the amount liable for county, city or district taxation, and the date when the bonded period will expire on the spirits. The report shall be filed by the county clerk in his office, and certified by him to the proper collecting officer of the county, city or taxing district for collection. The spirits, in addition to the tax for state purposes, shall be taxed for county, school and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts and cities in which the spirits are stored, but the combined rate of taxation for city and school purposes in cities of the first class shall not exceed one dollar and twenty-five cents ($1.25) on each one hundred dollars ($100) of assessed value of the spirits.

SECTION 317. KRS 132.160 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) Taxes on distilled spirits that shall be assessed while in a bonded warehouse or premises as of January 1, 1967, and January 1 of each year thereafter, shall become due September 15 following the assessment date and shall become delinquent on January 1. Delinquent taxes on such distilled spirits shall be subject to the same penalties as provided by law for other tangible personal property, and the collecting officer shall have all the powers and duties to collect such delinquent taxes, penalties, and interest as provided by law for other tangible personal property in such taxing jurisdiction.

(b) Taxes and interest on distilled spirits assessed while in a bonded warehouse or premises for each year prior to January 1, 1967, on which the federal tax has not been paid, shall be due on January 1, May 1, and September 1 next after the federal tax becomes due or is paid, or after the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state. Provided, however, the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1966 and January 1, 1965 shall be due on or before January 15, 1968; the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1964 shall be due on or before January 15, 1969; the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1963 shall become due on or before January 15, 1970; the remaining state taxes and interest on distilled spirits assessed while in a bonded warehouse or premises as of January 1, 1962 and all prior years shall become due on or before January 15, 1971. After July 1, 1970, any owner or proprietor, or custodian of a bonded warehouse or premises may elect to pay at one (1) time all accrued ad valorem taxes and interest. Such taxes and interest paid under this subsection shall be used for capital outlay by all local taxing jurisdictions.

(2) The taxes shall not become due by reason of a mere removal of the distilled spirits from one (1) bonded warehouse or premises to another bonded warehouse or premises within this state, but in that event the owner or proprietor from whose bonded warehouse or premises the distilled spirits are moved shall execute a bond with good and sufficient surety conditioned upon a payment of all taxes that have accrued upon the distilled spirits prior to removal from the county, city, or taxing district from which the distilled spirits are removed. The bond shall be in an amount sufficient to protect the county, city, or taxing district and shall be approved by the county judge/executive for the county, the mayor for the city, the superintendent of any school district involved, and by the person whose duty it is to collect taxes for any other taxing district. Prior to removal of any distilled spirits, the owner or proprietor from whose bonded warehouse or premises they are to be removed shall give written notice of such intention to the county, city, or taxing district, addressed to the officer thereof abovementioned and stating the quantity of distilled spirits to be moved and the name and address of the bonded warehouse or premises to which they are to be taken. After the distilled spirits are moved, the owner or proprietor shall notify the same officers of the county, city, or taxing district of the amount of accrued taxes on the distilled spirits, together with interest on the taxes. After any distilled spirits have once been moved as provided in this section and are moved again, all taxes that have accrued thereon up to the time of the second removal shall immediately become due and payable to any county, city, or taxing district to which any taxes have accrued.

(3) The taxes on each year's assessment shall bear interest at the tax interest rate as defined in KRS 131.010(6) until paid.

SECTION 318. KRS 132.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The property subject to taxation, unless exempted by the constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowl to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise cancelled or revoked.

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment

he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided in KRS 136.270; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

SECTION 319. KRS 132.193 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Leased personal property exempt from taxation, when such property is held by a natural person, association or corporation in connection with a business conducted for profit, shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property, except for personal property used in vending stands operated by blind persons under the auspices of the department for the blind.

(2) Taxes shall be assessed to lessees of exempt personal property and collected in the same manner as taxes assessed to owners of other personal property, except that taxes due under this section shall not become a lien against the personal property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, city or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

SECTION 320. KRS 132.195 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) When any real estate which for any reason is exempt from taxation is leased to a natural person, association, partnership or corporation in connection with a business conducted for profit, the leased property shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the real estate.

(2) Subsection (1) of this section shall not apply to interests in:

(a) Industrial buildings, as defined under KRS 103.200, used and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution; or

(d) Vending stand locations and facilities operated by blind persons under the auspices of the Department for the Blind, regardless of whether the property is owned by the federal, state or a local government.

(3) Taxes shall be assessed to lessees of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee or user to the state, county, school district, special district or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS 134.500.

SECTION 321. KRS 132.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in

KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1-1/2) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4-1/2) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;

(12) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(13) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(14) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale;

(15) Motor vehicles registered pursuant to the provisions of KRS 186.050(6); and

(16) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.

SECTION 322. KRS 132.210 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Every fraternal benefit society organized or licensed under subtitle 29 of KRS Chapter 304 is a charitable and benevolent institution, and its funds shall be exempt from all state, county, district, city and school taxes, other than taxes on real property and office equipment.

SECTION 323. KRS 132.215 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) To the extent that the present right to receive income for the period of a life or lives, or other

indeterminate period, may be held to be subject to assessment and taxation, the basis of the assessment value shall be the fair cash value.

(2) To the extent that a present right to receive income from any source for a life or lives or other indeterminate period, including the right to receive installment payments, even though for a determinate period, under the terms of a life insurance policy, payable by reason of the death of the insured, but not including future lump sum payments, may be held to be subject to assessment for ad valorem taxes, the owner or person enjoying such right on January 1 of each year shall pay a tax to the state of one-tenth of one cent upon each one hundred dollars of the fair cash value of his right on the assessment date. No other tax shall be assessed by the state or by any county, city, school district, or other taxing district on any such right, or against the holder of any such right on account thereof.

SECTION 324. KRS 132.220 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1, 1962, and January 1 of each year thereafter. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed such property with the property valuation administrator of the county of taxable situs or with the Revenue Cabinet between January 1 and April 15 in each year, except as otherwise prescribed by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer who has a reasonable excuse for not listing his property before the property valuation administrator or his deputy may make the necessary report required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case.

(3) Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title. If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person without designating them by name.

(5) Beginning in the year 1951, all real property exempt from taxation by section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of such tax-exempt property, but such property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the Revenue Cabinet within thirty (30) days of the close of the taxing period. This inventory shall be in the form prescribed by the Revenue Cabinet. The Revenue Cabinet shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the taxing period.

(6) Each property valuation administrator, under the direction of the Revenue Cabinet, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all such property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

SECTION 325. KRS 132.260 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Every warehouse company and every person engaged in the business of furnishing storage for personal property shall by February 1, 1961, and February 1 of each year thereafter, make a report to the property

valuation administrator, giving, as far as possible, accurate and complete information as to all property held by them on January 1, 1961, and January 1 of each year thereafter, and the names and residences of the owners of all property so held on that date.

(2) Every person providing rental space for the parking of mobile homes and recreational vehicles shall by February 1, 1961, and by February 1 of each year thereafter, report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 on his premises on January 1, 1961, and January 1 of each year thereafter to the property valuation administrator of the county in which the property is located.

(3) The reports required by subsections (1) and (2) shall be made in accordance with the forms prescribed by the Revenue Cabinet and shall be signed and verified by the chief officer or person in charge of the business.

(4) The Property Valuation Administrator may make a personal inspection and investigation of property held in storage and premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

(5) Every operator of a mobile home and recreational vehicle park or every owner of property used for such purposes when there is no operator, shall keep a register of all mobile homes and recreational vehicles which make use of the mobile home and recreational vehicle park. Such register shall set forth:

(a) The name of the owner or occupier and all inhabitants of each mobile home and recreational vehicle;

(b) The permanent and temporary post office addresses of all inhabitants;

(c) The license numbers of all units;

(d) The state issuing such license;

(e) The date of arrival and departure of each mobile home and recreational vehicle;

(f) The place of employment of all occupants.

(6) The register provided for in subsection (5) of this section shall be open to inspection to the county clerk and the property valuation administrator and all law enforcement agencies at all times.

(7) Every operator of a mobile home and recreational vehicle park or every owner of property used for such purposes when there is no operator, shall during December, January and February each year furnish weekly to the property valuation administrator a copy of the register.

SECTION 326. KRS 132.280 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The assessment made for state purposes, when supervised as required by law, shall be the basis for the levy of the ad valorem tax for county, school district and all special taxing district purposes; except that any special taxing district established within an incorporated city under existing statutory or any independent school district whose January 1, 1975, assessment per pupil in average daily attendance would have been reduced because of the use of the assessment made for state purposes as of January 1, 1975 shall continue to use the assessment made for city purposes.

SECTION 327. KRS 132.550 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) After the county clerk has completed the services required of him upon delivery of the tax rolls and schedules to him by the property valuation administrator, he shall then calculate the taxes due the state, county, school, county polls and school polls for each individual taxpayer, opposite their name in the tax rolls, upon the form prescribed by the Revenue Cabinet. The rolls and forms shall be a permanent record of the county clerk's office.

(2) For performing the services required by this section the county clerk shall be paid the sum of fifteen cents (15) for each tax list on the tax rolls, one-half (1/2) of this sum to be paid by the state, and the other one-half (1/2) to be paid by the county.

SECTION 328. KRS 132.670 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall prepare detailed maps identifying every parcel of real property within each county of the state. Each county shall furnish to the cabinet adequate facilities in the county courthouse in which to work. The Revenue Cabinet shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy property valuation administrator. Locally employed mapping project personnel

shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

(2) The Revenue Cabinet shall conduct a biennial review of the quality of maps and ownership records in each county. If, in the first review conducted under these provisions, the maps and records in any county fail to meet the minimum standards established by the cabinet, the cabinet shall assume responsibility for remapping, revision, and updating under the provisions of subsection (1) of this section. Minimum maintenance standards to be followed by each property valuation administrator shall be established by the cabinet.

SECTION 329. KRS 132.690 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards prescribed by the Revenue Cabinet and shall be physically examined no less than once every four (4) years by the property valuation administrator or his assessing personnel. In accordance with procedures prescribed by the Revenue Cabinet, the property valuation administrator shall submit an assessment schedule to the cabinet and shall maintain a record of physical examination and revaluation for each parcel of real property which includes, in addition to other relevant information, the inspection dates.

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) If the property valuation administrator fails to revalue property as required by this section, the Revenue Cabinet shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator willfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the Revenue Cabinet to correct the assessment shall have his compensation suspended by the cabinet and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.

(4) Nothing in this section shall prohibit action by the Revenue Cabinet under the provisions of KRS 133.150 or 132.660 in any year in which the cabinet determines such action to be necessary.

SECTION 330. KRS 132.720 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in KRS 132.260 and 132.720 to 132.750, unless the context otherwise requires:

(1) "Mobile home park" and "recreational vehicle park" have the same meanings as in KRS 219.320.

(2) "Unit" means any single mobile home or recreational vehicle.

(3) "Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land.

SECTION 331. KRS 132.730 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All mobile homes and recreational vehicles which are within this state on January 1 each year shall be subject to all ad valorem tax levies applicable to other tangible personal property subject to full state and local rates, except that any mobile home and recreational vehicle not licensed in this state and not remaining within this state for a period of more than ninety (90) days in any twelve (12) month period shall not have a taxable situs in this state unless an occupant is employed in this state.

SECTION 332. KRS 132.750 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Mobile homes shall be classified as real estate for the purpose of the levy and assessment of taxes, regardless of whether the wheels or mobile parts have been removed and the unit rests on a permanent, fixed foundation.

SECTION 333. KRS 132.810 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the Revenue Cabinet. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must

be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by the railroad retirement system on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification through December 31 of the year in which application is made.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying said unit, but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home, recreational vehicle, or manufactured house may qualify as a residential unit for purposes of the homestead exemption provision provided the unit is classified as real property as defined in KRS 132.750.

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification or at the end of the taxation period for which the homestead exemption has been granted .

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

SECTION 334. KRS 132.990 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any person who wilfully fails to supply the property valuation administrator or the Revenue Cabinet with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who wilfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense, and the judgment of conviction may declare his office vacant.

(3) Any county clerk who wilfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50.00) for each offense.

(4) Any person who wilfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

SECTION 335. KRS 133.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "Cabinet" means the Revenue Cabinet.

(3) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

SECTION 336. KRS 133.070 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Property in territory annexed by another civil division shall not be subject to ad valorem taxation in the annexing civil division until the assessment date next following the date of annexation.

SECTION 337. KRS 133.120 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any taxpayer aggrieved by an assessment on real property made by the property valuation administrator may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed and stating to the county clerk the taxpayer's opinion of the fair cash value of the property within the twelve (12) day period in which the inspection is held. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the Revenue Cabinet, county judge/executive, mayor of any city using the county assessment or the superintendent of any school district in which the property is located, provided such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. Any real property owner who has listed his property with the property valuation administrator at its fair cash value, likewise may ask the county board of assessment appeals to review the assessments of real properties he believes to be assessed at less than fair cash value, providing he specifies in writing the individual properties for which the review is sought and factual information upon which his request is based, such as comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(2) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(3) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(4) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(5) No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky Board of Tax Appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional

tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(6) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals.

(7) It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

SECTION 338. KRS 133.160 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

When it is contemplated by the Revenue Cabinet that it will be necessary to raise the assessed valuation of property in any county, it shall give notice of the contemplated action to the county judge/executive , the superintendent of any school district affected by such action, the mayor of any city which is affected and which has adopted the assessment, and to the taxpayers of that county through the county judge/executive, who shall post the notice sent him on the courthouse door and certify to the Revenue Cabinet that this has been done, and it shall fix a time and place for a hearing which may be in Frankfort or any convenient place in or nearer the county seat.

SECTION 339. KRS 133.170 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) When the Revenue Cabinet has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky Board of Tax Appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the cabinet's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky Board of Tax Appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the cabinet's action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the Revenue Cabinet and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the Revenue Cabinet and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky Board of Tax Appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120(5) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the Revenue Cabinet under the provisions of KRS 133.150.

SECTION 340. KRS 133.180 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

When the Revenue Cabinet has completed its action on the assessment of property in any county, it shall immediately certify to the county clerk the assessment and the amount of taxes due. The Revenue Cabinet shall charge the amount of taxes due from the county to the sheriff of the county. When any item of property is in process of appeal and the valuation has not been finally determined, the certification of such property shall be based on the valuation claimed by the taxpayer as the true value. The county clerk shall affix the certification to the tax books and enter it of record in the order book, and it shall be the sheriff's or collector's warrant for the collection of taxes.

SECTION 341. KRS 133.185 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the Revenue Cabinet to the county clerk as provided in KRS 133.180.

SECTION 342. KRS 134.270 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Neither the sheriff nor a surety shall be liable for any act or default of the sheriff in connection with his revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the Revenue Cabinet, the county judge/executive, the county attorney or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

SECTION 343. KRS 134.290 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In counties where the state taxes charged to the sheriff for the year are less than seventy-five thousand dollars ($75,000), he shall be allowed by the Revenue Cabinet, for collecting such taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than one hundred fifty thousand dollars ($150,000), he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter per cent (4.25%) upon the residue.

SECTION 344. KRS 134.300 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The sheriff shall, by the tenth day of each month, or more often if required by the county judge/executive to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the county judge/executive the amount of state and county taxes he has collected during the month preceding, together with all fines, forfeitures, or money on any other account that has been received or collected by him for the preceding month. He shall show in this report the amount collected for and belonging to each particular fund for which the revenue or money may be intended, and the disposition of such revenue or money collected by him. The reports shall be filed and recorded in separate books furnished by the county judge/executive for that purpose, and they shall be open for inspection in the office of the county clerk.

(2) At the time of making the report to the county judge/executive, the sheriff shall pay to the county treasurer, or other officer designated by the fiscal court, all funds belonging to the county that were collected by him during the period covered in the report. He shall take a receipt from the county treasurer for the amount so paid, in duplicate, one (1) duplicate to be retained by the sheriff and the other to be delivered by him to the county judge/executive who shall file it in his office.

(3) Any sheriff failing to pay over taxes collected by him and due the county, as provided by law, shall be required by the fiscal court to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof plus interest at the legal rate per annum on such taxes. The fiscal court in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The county judge/executive may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) and the reports for all other levies made by the fiscal court whenever, in his judgment, good cause therefor exists. The extension shall be in writing and shall be recorded in the office of the county clerk. The extension when granted shall suspend the penalty and interest for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

SECTION 345. KRS 134.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court, before making settlement with the Revenue Cabinet. At the regular October term each year the fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The report of this settlement shall be filed in the county clerk's office and approved by the county judge/executive. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections.

(3) Either party may institute an action in circuit court to correct the settlement. The settlement, when approved, shall be recorded in the county clerk's office.

(4) On the final settlement the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300.

(5) In counties containing a population of less than seventy-five thousand (75,000) the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

SECTION 346. KRS 134.320 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the Revenue Cabinet to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the cabinet the amount of all state taxes he has collected during the preceding month, or for such period as the cabinet may require.

(2) The sheriff shall, at the time of making this report, pay to the cabinet, for deposit with the state treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The cabinet may report to the grand jury of Franklin County any sheriff failing to report as required. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the cabinet to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof plus interest at the legal rate per annum on such taxes. The cabinet in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The Revenue Cabinet may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) whenever, in its judgment, good cause therefor exists. The extension shall be in writing, and the cabinet shall keep a record of such extensions. The extension when granted shall suspend the penalty and interest provided by subsection (3) for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

SECTION 347. KRS 134.420 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five (5) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering such taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and

shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall arise at the time any assessment becomes delinquent, and it shall continue until the amount of the original assessment and any subsequent assessments of liability for taxes, fees, penalties, interest or costs are fully paid. The lien shall attach to all interest in property, either real or personal, tangible or intangible, in this state then owned or subsequently acquired by the person against whom the assessment is made. The Revenue Cabinet may file notice of the lien and every city of the third, fourth, fifth and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property and such notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens. Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the Revenue Cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The lien of the Commonwealth of Kentucky for taxes shall be superior to all liens and security interests created under Kentucky law except that nothing in this subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee pursuant to KRS 64.012 for filing the notice of lien or releasing the lien. The fees for filing or releasing the lien shall be paid by the taxing authority filing same and shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien. The lien shall be released by the taxing authority that filed the notice of lien.

SECTION 348. KRS 134.990 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who willfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (4) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection (1) of KRS 134.500 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the Revenue Cabinet, or to make the entries required by law, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

SECTION 349. KRS 136.050 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except where otherwise specially provided, all corporations required to make reports to the Revenue Cabinet shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following March 31 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the rate of ten percent (10%) per annum.

SECTION 350. KRS 136.120 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent such property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of such taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The Revenue Cabinet shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not such operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by said cabinet, and shall, except as provided in subsection (4) of this section, allocate such assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of such assessment date. Provided, however, that in the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

(4) (a) The Revenue Cabinet shall likewise have sole power to value and assess all the property within the taxing jurisdiction of this Commonwealth of every passenger, sleeping, freight, and private car company, which is hereby defined as any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in or across this state or any part thereof, any kind of railroad car including but not necessarily limited to flat, tank, refrigerator, passenger, or similar type car. The cabinet shall not certify the assessment of the rolling stock of such companies to any county, city, or taxing district, but shall apportion and certify the operating property, other than rolling stock, to the counties, cities, and taxing districts where such property is located. On or before November 1, 1984, and each year thereafter, the Revenue Cabinet shall establish the state tax rate for rolling stock of private car lines based on average tax rate for tangible personal property except motor vehicles, within the Commonwealth subject to state, county, school and applicable city levy. The rolling stock of such companies shall be taxable for state purposes

only and shall not be subject to taxation by a county, city, or other taxing district.

(b) The property of taxpayers within the meaning of paragraph (a) of this subsection shall likewise be classified as operating property, nonoperating tangible property, and nonoperating intangible property. The nonoperating intangible property of the companies within the meaning of this subsection which are within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes at the same rate as the intangible property of nonpublic service taxpayers.

SECTION 351. KRS 136.180 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Revenue Cabinet shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation, and the amount of assessment for state and local purposes. When the valuation has been finally determined, the cabinet shall immediately certify to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount thereof liable for county, city, or district tax. The certificate shall be filed by each county clerk in his office, and by him certified to the proper collecting officer of the county, city, or taxing district for collection. Any district which has such value certified by the cabinet shall pay annually to the cabinet a fee which represents an allocation of cabinet operating and overhead expenses incurred in generating said valuations. This fee shall be determined by the cabinet and shall apply to valuations for tax periods beginning on or after December 31, 1981.

SECTION 352. KRS 136.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The superintendent of schools in each district in which any individual, group of individuals or corporation, operates public utility or other franchise taxpaying property assessed under KRS 136.120 shall, on or before the first day of January, 1957, furnish to the county clerk of the county in which the district is situated, to each franchise taxpayer within the district, and to the Revenue Cabinet the boundary of his school district. The superintendent of schools in each district in which any franchise-paying corporation, individual, or group of individuals operates shall, on or before the first day of January, 1958, and each year thereafter, furnish to the county clerk, to each franchise taxpayer within the district, and to the Revenue Cabinet any changes made in the boundary of his school district during the immediate preceding twelve (12) months.

(2) The engineer of cities of the first class and the city clerk of cities of the second, third, fourth, fifth, and sixth classes shall notify the county clerk, each franchise taxpayer within the city, and the Revenue Cabinet of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

(3) The responsible governing official or the chairman of the governing body of any taxing district other than the county, school district, or city shall notify the county clerk, each franchise taxpayer within the district, and the Revenue Cabinet of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

SECTION 353. KRS 136.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The assessment of railroad bridges spanning any river that constitutes a boundary of the state shall be allocated to the counties in which they are located, and the local tax derived therefrom shall be applied to each city, county, or taxing district in which the bridges are located.

SECTION 354. KRS 136.270 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) For calendar year 1984 and each year thereafter an annual tax of ninety-five cents (95) is hereby imposed on each one hundred dollars ($100) of the taxable fair cash value of shares as determined in accordance with subsection (4) of this section. The tax shall be paid to the sheriff of the county annually by the banks and trust companies, for and on behalf of the owners of the shares of stock. The tax shall be for state purposes only, and in lieu of all other taxes upon such shares by the state, or any county, city or other taxing district, except as provided in subsections (2) and (3) of this section.

(2) The county in which the bank or trust company is located may impose a tax on each one hundred dollars ($100) of the taxable fair cash value of shares of such bank or trust company, at a rate not to exceed a rate to be determined by multiplying nineteen cents (19) by a fraction, the numerator of which is the fair cash value of shares of all banks or trust companies within the county and the denominator of which is the taxable fair cash value of shares of all banks or trust companies within the county.

(3) The city in which the bank or trust company is located may impose a tax on each one hundred dollars ($100) of the taxable fair cash value of the shares of such bank or trust company, at a rate not to exceed a rate to be determined by multiplying nineteen cents (19) by a fraction, the numerator of which

is the fair cash value of shares of all banks or trust companies within the city and the denominator of which is the taxable fair cash value of shares of all banks or trust companies within the city.

(4) For calendar year 1984 and each year thereafter, the fair cash value and taxable fair cash value of shares shall be determined in the following manner:

(a) The net worth (capital stock, surplus, undivided profits and reserves for contingencies and other capital reserves) of the bank or trust company as of December 31 of each year shall be determined.

(b) The net income (after federal income taxes and before dividends) of the bank or trust company for the past five (5) years, or so many years in which there was net income (not to exceed five (5)) as are available, preceding the assessment date, shall be averaged and capitalized at a rate determined by the Revenue Cabinet.

(c) On or before September 1 of each year, the Revenue Cabinet shall provide to the banking industry the capitalization rate developed from the previous year's annual reports of banks and trust companies submitted to the cabinet. The rate shall be determined as follows:

1. Determine the ratio of each bank's five (5) year average net income to the previous year's net worth;

2. Rank the resulting ratios; and

3. The medium ratio shall be the capitalization rate.

(d) The results of the computation in paragraphs (a) and (b) of this subsection shall be added and the sum divided by two (2) to determine fair cash value. From fair cash value shall be subtracted the influence of tax exempt United States obligations to determine taxable fair cash value of shares subject to the annual tax. The influence of tax exempt United States obligations is to be determined from the reports of condition and income filed with the applicable supervisory agency as follows: the average amount of tax exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by the fair cash value.

(5) In any extraordinary case where application of the formula provided by subsection (4) of this section will result in an inequitable or erroneous assessment, either with respect to the bank or the Commonwealth, the fair cash value and taxable fair cash value of shares shall be determined in accordance with other recognized criteria.

SECTION 355. KRS 136.280 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Every bank and trust company incorporated under the laws of this state, and every national bank doing business in this state, shall, by February 1 of each year, make a report to the Revenue Cabinet and to the assessing officer of the county, city, or taxing district in which it is located. The report shall show the name and post office address of the bank or trust company; the names of the president, cashier, and board of directors; the number of shares of stock and the par and market value of each share; the amount of capital stock paid in; the amount of surplus and undivided profits; the amount of real property charged off that has not been actually sold and transferred; the amount of its deposits; the amount of cash on hand; the amount of securities held by it; the amount loaned on mortgages; the amount of its loans and discounts; the value of all tangible property situated in this state that is held and owned by the bank or trust company on January 1 of each year; and such other information as may be required.

(2) The assessing officer of the county, city or, taxing district in which any trust company or state or national bank is situated shall assess its shares for taxation for state, county, city, and taxing district purposes.

(3) Each bank and each trust company shall list its tangible property with the assessing officer of each county and city in which such property is located, and pay taxes thereon to the collecting officer of such county, city or other taxing district, and that officer shall make out and return the assessment to the proper authorities of the county and city, at the same time and in the same manner as prescribed by law for the return of the assessment of personal property therein.

(4) The equalization, collection, penalties, and laws relating thereto provided for other personal property in the county, city, or taxing district shall apply to the collection of the taxes provided for in this section. Any county, city or taxing district may collect such taxes by suit.

(5) The provisions of this section do not apply to cities of the first class to the extent that such provisions are in conflict with the provisions of KRS 91.620 through 91.680.

SECTION 356. KRS 136.320 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall

value as of January 1 and report to the Revenue Cabinet by July 15, 1966, and by April 1 each year thereafter, on forms prescribed by the Revenue Cabinet, the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) Such other information as may be required by the Revenue Cabinet to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and such other information as may be available, the Revenue Cabinet shall value each company's "taxable capital" and "taxable reserves" as follows:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1)(c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) An annual tax of seventy cents (70¢) on each one hundred dollars ($100) of the fair cash value of "taxable capital" and one-tenth of one cent ($.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves" shall be imposed for state purposes. The tax shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections (4), (5), and (6) of this section.

(4) The county in which the principal office of the company is located may impose a tax of fifteen cents (15¢) on each one hundred dollars ($100) of "taxable capital."

(5) The city in which the principal office of the company is located may impose a tax of fifteen cents (15¢) on each one hundred dollars ($100) of "taxable capital."

(6) The Revenue Cabinet shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county clerk of the county in which the principal office of the company is located the value of "taxable capital" subject to local taxation. The county clerk shall prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(7) Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which such property is located in the same manner and at the same rates as all other property of the same class.

(8) Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the Revenue Cabinet.

(9) Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

SECTION 357. KRS 136.990 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any county clerk who fails to comply with the provisions of subsection (2) of KRS 136.020 shall be fined not less than ten dollars ($10) nor more than twenty-five dollars ($25).

(2) Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(3) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after March 31 of each year.

(4) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(5) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(6) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(7) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(9) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (5) to (7) of this section.

(10) If any taxpayer fails to make or file a return as required by KRS 136.090 on or before the due date of the return, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the cabinet shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall a penalty be less than ten dollars ($10).

(11) If the tax imposed by KRS 136.070, whether assessed by the cabinet or the taxpayer, or any instalment or portion of the tax, is not paid on or before the date prescribed for its payment, it shall be collected as a part of the tax, interest upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the cabinet.

SECTION 358. KRS 139.496 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to the first five hundred dollars ($500) of sales made in any calendar year by individuals or nonprofit organizations not engaged in the business of selling. This exemption is limited to the following types of transactions or activities:

(a) Garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business;

(b) Fund raising event held by nonprofit civic, governmental, or other nonprofit organizations, except as set forth in KRS 139.497.

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale or where nonprofit organizations conduct regular selling activities in competition with private business.

SECTION 359. KRS 139.497 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to sales by elementary or secondary schools or nonprofit elementary or secondary school sponsored clubs and organizations or any nonprofit, elementary or secondary school affiliated groups such as parent-teacher organizations and booster clubs, whose membership may be composed of individuals other than students, provided the net proceeds from such sales are used solely for the benefit of the elementary or secondary school or its students. Such nontaxable sales shall include sales resulting from agreements or contracts entered into with resident or nonresident organizations to participate in fund-raising campaigns for a percentage of the gross receipts where students act as agents or salesmen for the organizations by selling or taking orders for the sale of tangible personal property, and no one shall be required to pay sales or use taxes on such sales.

SECTION 360. KRS 149.130 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) All moneys paid to the state under an Act of Congress of May 23, 1908 (35 Stat. 260) as amended, and arising from any national forest reserve created in the state by the federal government, shall be paid over to the Finance and Administration Cabinet and be turned into the State Treasury. The Finance and Administration Cabinet shall keep a separate account of all funds so received.

(2) The treasurer of each county in which there is situated any part of a forest reserve owned by the United States shall ascertain and report to the Finance and Administration Cabinet the name and area of that part of each reserve located in his county. The Finance and Administration Cabinet shall apportion the amount received by reason of each reserve among the counties in which the reserve is located, according to the area of the reserve in each county. If a fund is received from a reserve which lies in only one (1) county, it shall all be apportioned to that county. The Finance and Administration Cabinet shall draw a warrant on the State Treasury in favor of the treasurer of each county for the amount apportioned to that county.

(3) The county treasurer shall place one-half (1/2) of the funds to the credit of the public roads of his county and the other half (1/2) shall be distributed among the school districts in the county according to the area of the reserve in each school district.

SECTION 361. KRS 156.026 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

An employee of a local school district who transfers to become an employee of the Department of Education shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3). The employee shall be allowed credit for each year of experience in the local school system for the purposes of determining salary in accordance with the current Department of Personnel pay schedule, and the rate of accumulation of annual and sick leave in the Department of Education.

SECTION 362. KRS 156.071 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The State Board for Elementary and Secondary Education may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board or to a single member of the board acting as a hearing officer, relative to any hearing, appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, the full board, as provided by statute, makes the final decision or determination, based upon the evidence submitted.

SECTION 363. KRS 156.074 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The State Board for Elementary and Secondary Education, upon requisition to the Finance and Administration Cabinet, may secure price contract agreements for the purchase of supplies and equipment by district boards of education. The board by regulation shall specify the particular types of supplies and equipment for which contracts shall be secured and may revise such lists from time to time. The board, in consultation with the Finance and Administration Cabinet, shall fix standards of quality and quantity and shall develop standard specifications for supplies and equipment. The Finance and Administration Cabinet shall enter into price contract agreements under the law relating to state purchasing. Such contracts shall establish sources of supply, maximum prices to be paid, and shall set forth the length of time for which such contracts shall be valid, not to exceed one (1) year.

SECTION 364. KRS 156.097 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Board for Elementary and Secondary Education shall develop regulations to establish a program of educational institutes for teachers. The purpose of such institutes shall be the general improvement of instruction within the Commonwealth.

(2) Teacher institutes shall be held during the summer months at various college campuses selected by the State Board for Elementary and Secondary Education. Each institute shall be of one (1) week duration.

(3) The State Board for Elementary and Secondary Education shall develop specific criteria relating to the selection of eligible teachers for institute participation, with an emphasis on selecting teachers with a demonstrated record of effective teaching.

(4) Any teacher selected and agreeing to participate in a particular teacher institute session shall be reimbursed for expenses incurred in attendance, and shall be awarded a stipend in an amount to be determined by the State Board for Elementary and Secondary Education.

(5) The program shall encourage business and industry within the Commonwealth to become institute sponsors for teachers within the respective communities of such business and industry.

SECTION 365. KRS 156.153 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) All school buses for which bids are made or bid contracts awarded shall meet the standards and specifications of the State Board for Elementary and Secondary Education. The term "school bus," as used in this section, shall mean any motor vehicle which meets the standards and specifications for school buses as provided by law or by the standards or specifications of the State Board for Elementary and Secondary

Education authorized by law and used solely in transporting school children and school employees to and from school under the supervision and control and at the direction of school authorities, and shall further include school bus accessory equipment and supplies and replacement equipment considered to be reasonably adaptable for purchase from price contract agreements.

(2) All school buses manufactured prior to 1983 shall be equipped with exterior fender mounted front view and side view mirrors so as to meet the 1984 standards and specifications of the State Board for Elementary and Secondary Education.

SECTION 366. KRS 156.285 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The accountant shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money and property of any board. Every officer or employee of any such board having such records or property in his possession or under his control shall permit access to and examination of them upon the request of the accountant.

(2) The committee may require information on oath from any person touching any matters relative to any account that the accountant is required to audit. The committee may administer the oath, or have it done by any officer authorized to administer an oath.

(3) The committee may issue process and compel the attendance of witnesses before it, and administer oaths and compel witnesses to testify in any of the investigations the accountant is authorized to make.

SECTION 367. KRS 156.295 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any officer or employee of a board or any other person who prevents, attempts to prevent, or obstructs an examination by the accountant made under KRS 156.265 and 156.275 is guilty of a high misdemeanor and shall, upon indictment and conviction in the Circuit Court of competent jurisdiction, be fined five hundred dollars ($500).

(2) Any person who fails or refuses to permit the examination provided for in KRS 156.285 or who interferes with such examination shall be fined not less than one hundred dollars ($100) or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both. Each refusal shall constitute a separate offense.

(3) Any person who has custody of any books, accounts, reports, vouchers, correspondence, files, records, money and property that the accountant is authorized to examine under KRS 156.265 and 156.285 who fails or refuses when called upon by the committee for that purpose to permit the accountant to inspect any of such materials shall, upon conviction in the circuit court of competent jurisdiction, be fined not more than five hundred dollars ($500) and be subject to removal as provided by law.

(4) Any person who refuses to be sworn when required by the committee to be sworn for the purpose mentioned in subsection (2) of KRS 156.285 shall be fined not more than five hundred dollars ($500).

(5) Any witness called by the committee under subsection (3) of KRS 156.285 who fails, without legal excuse, to attend or testify shall be fined not more than five hundred dollars ($500).

SECTION 368. KRS 156.480 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If any employee of the Department of Education or the superintendent, assistant superintendent, business manager, purchasing agent, or employee of any county or independent school district shall have any pecuniary interest either directly or indirectly in an amount exceeding twenty-five dollars ($25.00) per year either at the time of or after his appointment to office, in supplying any goods, services, property, merchandise or services, except personal services which are in addition to those required by contract for employment, of any nature whatsoever for which school funds are expended, or if any such person receives directly or indirectly any gift, reward or promise of reward for his influence in recommending or procuring the use of any goods, services, property or merchandise of any kind whatsoever for which school funds are expended, he shall upon conviction be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and his office or appointment shall without further action be vacant.

SECTION 369. KRS 156.486 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) There is hereby established a nonprofit foundation to be known as the "GED Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education

agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the appropriate board with responsibility for adult education programs based on recommendations from business, industry, labor, education and interested citizens. Staff assistance for the board of trustees shall be provided by the agency with the responsibility for administering the adult education program.

SECTION 370. KRS 156.495 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Department of Education shall provide, by administrative regulation, for a program to identify and locate missing Kentucky school children who are enrolled in Kentucky public and private schools in kindergarten through grade twelve (12). Pursuant to such program, the department shall:

(a) Prepare forms to be forwarded, upon request, to the parents or guardians of missing Kentucky school children enrolled in kindergarten through grade twelve (12). The forms shall be designed to include such information as the department deems necessary for the identification of the missing child, including the child's physical description and last known location;

(b) Compile from the information on such forms a list of missing Kentucky school children, to be distributed monthly to all public and private schools admitting children to kindergarten through grade twelve (12). The list shall include the names of all such missing children, together with such other information as the department deems necessary; and

(c) Notify the appropriate local, state or federal law enforcement authority as soon as any additional information is obtained or contact is made with respect to a missing Kentucky school child.

(2) Every public and private school in this state shall notify the Department of Education at its earliest known contact with any child whose name appears on the department's list of missing Kentucky children.

(3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

SECTION 371. KRS 156.710 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The compact for education is hereby entered into law with all jurisdictions legally joining therein, in the form substantially as follows:

Article I. Purpose and Policy

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

## Article II. State Defined

As used in this compact, "state" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

## Article III. The Commission

A. The Education Commission of the States, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the Governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten (10) non-voting commissioners selected by the steering committee for terms of one (1) year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III J.

C. The commission shall have a seal.

D. The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph F of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The commission annually shall make to the Governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

### Article IV. Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto, available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

### Article V. Cooperation with Federal Government

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten (10) representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

### Article VI. Committees

A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two (32) members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth (1/4) of the voting membership of the steering committee shall consist of Governors, one-fourth (1/4) shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two (2) years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen (16) for one (1) year and sixteen (16) for two (2) years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regular ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two (2) terms as a member of the steering committee; provided that service for a partial term of one (1) year or less shall not be counted toward the two (2) term limitation.

B. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two (2) or more of the party states.

C. The commission may establish such additional committees as its bylaws may provide.

### Article VII. Finance

A. The commission shall advise the Governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III G of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III G thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

### Article VIII. Eligible Parties — Entry into and Withdrawal

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least ten (10) eligible party jurisdictions shall be required.

C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

### Article IX. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

SECTION 372. KRS 156.715 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Kentucky representation on the commission provided by Article III of the compact consists of seven (7) members, one (1) of whom shall be the Governor; two (2) of whom shall be members of the General Assembly, a representative and a senator, selected by the Legislative Research Commission in accordance with KRS 8.080; and four (4) of whom shall be appointed by and serve at the pleasure of the Governor.

SECTION 373. KRS 156.720 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Pursuant to Article III (I.) of the compact, rhe commission established by the compact shall file a copy of its bylaws and any amendment thereto with the Legislative Research Commission.

SECTION 374. KRS 157.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school fund shall consist of the fund dedicated by the constitution and laws of this Commonwealth for the purpose of sustaining a system of common schools therein. The annual resources of the fund shall consist of:

(1) The interest on the bond of the Commonwealth for one million three hundred twenty-seven thousand dollars ($1,327,000) at the rate of six percent (6%) per annum payable on the first day of January and July of each year.

(2) The interest on the proceeds of fifty-two thousand dollars ($52,000) formerly invested in Liberty Loan Bonds under authority of chapter 6 of the Acts of 1920, now invested by the State Board for Elementary and Secondary Education.

(3) The dividends from whatever remains of the original investment of seventy-three thousand five hundred dollars ($73,500) in the capital stock of the Bank of Kentucky.

(4) The interest on the bond of the Commonwealth for three hundred eighty-one thousand nine humdred eighty-six dollars and eight cents ($381,986.08) due the several counties and remaining a perpetual obligation against the Commonwealth for the benefit of the respective counties, at the rate of six percent (6%) per annum payable annually on the first day of July to the counties entitled to it and in the proportion to which they are entitled, to be used exclusively in aid of common schools.

(5) The interest at six percent (6%) per annum, payable on the first day of January and July each year, on six hundred six thousand six hundred forty-one dollars and three cents ($606,641.03) received from the United States under an act approved March 2, 1891 for which the Commonwealth has executed bond pursuant to chapter 6 of the Acts of 1892.

(6) Such sums as are appropriated by the General Assembly in aid of the common schools.

SECTION 375. KRS 157.030 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The net revenue of the common school fund accruing during each school year shall constitute the sum to be distributed. No fee, discount, check or other incidental expense shall be paid out of the distributable share of the revenue apportioned to any school district.

SECTION 376. KRS 157.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) "Exceptional children" means persons under twenty-one (21) years of age who differ in one (1) or more respects from average or normal children in physical, mental, learning, emotional or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit maximally from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. The Department of Education, through regulations endorsed by the State Board for Elementary and Secondary Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section or stipulated in the regulations of the state Department of Education. Requirements of average daily attendance for exceptional classes will be regulated by statute, or in the absence of such direction by departmental regulations endorsed by the State Board for Elementary and Secondary Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:

(a) "Physically handicapped" means any physical disability which makes it impracticable or impossible to benefit from or participate in the normal classroom program;

(b) "Communication disorder" means a disorder in hearing, language, or speech which adversely affects educational performance;

(c) "Mentally handicapped" means retarded intellectual development, as determined by recognized standardized tests and assessment of adaptive behavior, which adversely affects a child's educational performance;

(d) "Specific learning disability" means a disorder in one (1) or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term does not include learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage;

(e) "Emotional disturbance (behavior disorder)" means a condition in which a variety of excessive chronic, deviant, inappropriate, persistent behaviors are exhibited which adversely affect a child's educational performance;

(f) "Multiple handicapped" means a combination of two or more moderate to profound handicaps which produce serious learning, developmental, or behavioral/emotional problems. These handicaps prohibit or seriously limit progress in a regular or special education program designed to accommodate children with a single handicap.

(2) "Special education" means specially designed instruction to meet the unique needs of a handicapped child.

(3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and approved according to regulations promulgated by the State Board for Elementary and Secondary Education.

(4) "Related services" means such developmental, corrective and other supportive services as are required to assist a handicapped child to benefit from special education, and may include, but are not limited to, psychological services, physical and occupational therapy, physical education, identification and assessment of disabilities, counseling services and medical services for diagnostic or evaluation purposes.

SECTION 377. KRS 157.230 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

School boards of any school district subject to the provisions of KRS 157.200 to 157.280, shall establish and maintain special educational programs for exceptional children who are residents of their school district, or contract for programs as may be authorized by KRS 157.280.

SECTION 378. KRS 157.250 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No person shall be employed to teach in any special education program authorized by KRS 157.230 unless he has had such special training as the State Board for Elementary and Secondary Education may require.

SECTION 379. KRS 157.270 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If in any district there are exceptional children not able even with the help of transportation to be assembled in a school, instruction shall be provided in the child's home or in hospitals or sanitoria. Exceptional children so instructed may be counted under the provisions of KRS 157.360, counting, however, a minimum of two (2) visits a week with a minimum of one (1) hour of instruction per visit, by a teacher provided by the board of education as equivalent to the attendance of one (1) child five (5) days in school.

SECTION 380. KRS 157.285 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Local boards of education may contract to provide "related services" to exceptional children when the appropriate services are not available through a public or private agency.

SECTION 381. KRS 157.611 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) By establishing the School Facilities Construction Commission, the General Assembly expresses its commitment to help local districts meet the school construction needs of the state in a manner which will insure an equitable distribution of funds based on unmet need.

(2) The commission is empowered to act on behalf of school districts to issue bonds in the name of the commission and to enter into lease agreements with local boards of education to finance construction of new facilities or major renovation of existing school facilities. The commission is also empowered to enter into agreements which may provide for a percentage discount, on a biennially renewable basis, of annual lease agreements due the commission for those districts which participate. The commission is also empowered to enter into lease agreements with the Department of Education to build state owned facilities operated by the Department of Education.

(3) Nothing in KRS 157.611 to 157.640 shall prohibit a school district from issuing bonds in accordance with KRS Chapter 162.

SECTION 382. KRS 157.617 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) An independent corporate agency and instrumentality of the Commonwealth is hereby created and established with all the general corporate powers incidental thereto. The corporation shall be known as "The School Facilities Construction Commission" and shall be endowed with perpetual succession and with the power to contract and to be contracted with, to sue and be sued, to have and to use a corporate seal, to adopt by-laws and regulations, subject to the provisions of KRS Chapter 13A, for the orderly conduct of its affairs.

(2) The commission shall consist of the secretary of the Finance and Administration Cabinet and eight (8) members appointed by the Governor. The members shall possess a knowledge of long-term debt financing or school facility planning and construction. Appointment shall become effective on January 1 and end on December 31, except the initial appointments shall become effective when made by the Governor. Members shall serve staggered six year terms, except when making the initial appointments three (3) members shall be appointed for six (6) year terms, three (3) members shall be appointed for four (4) year terms, and two (2) members shall be appointed for two (2) year terms. The Governor shall appoint a chairman and vice-chairman for the first year; thereafter a chairman and vice-chairman shall be elected annually by the membership. The commission may elect other officers it considers necessary and shall employ a director and staff necessary to manage the program.

(3) If any of the officers of the commission whose signatures or facsimiles thereof appear on any bonds of the commission, or on any other instruments or documents pertaining to the functions of the commission, shall cease to be such officers before delivery of the bonds, or before the effective date or occasion of such instruments or documents, the signatures, and facsimiles thereof, shall nevertheless be valid for all purposes the same as if the officers had remained in office until such delivery or effective date or occasion.

(4) Officers, employees and agents of the commission having custody of money shall at all times be bonded to the maximum amount reasonably anticipated to be held at any one (1) time; and each bond shall have good corporate surety, provided by a surety company authorized to do business in the Commonwealth, to be approved in each instance by the commission. Premiums for such surety shall be paid from the budgeted funds of the commission.

(5) The commission shall at all times keep and maintain books of record and account reflecting accurately all its financial transactions. The commission shall be audited annually and shall submit a written report of its activities to the Governor. A copy of each report shall be filed with the Legislative Research Commission.

(6) Moneys received by the commission as rentals under any lease, and from the sale of bonds are declared not to be funds of the Commonwealth, but shall be corporate funds of the commission to be held, administered, invested and disbursed as trust funds under the terms, provisions, pledges, covenants, and agreements set forth in its leases and bond resolutions and bonds.

(7) The commission and all of its transactions, activities and proceedings in the authorization and issuance of its bonds, execution of leases, acceptance of conveyances of property, transaction of conveyances of property, and otherwise, shall be exempt from all provisions relating to custodianship by the Secretary of State of title documents, leases, abstracts of title, maps and other records as provided in KRS 56.020 and 56.320. Conveyances of property to or by the commission shall not be deemed to be conveyances to or by the Commonwealth, and title to any property acquired by the commission shall be held by the commission in its own name.

(8) The Finance and Administration Cabinet shall provide technical assistance to the commission in the issuance of bonds.

SECTION 383. KRS 157.625 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Bonds of the commission shall be issued in the name of the commission, shall be designated "school building revenue bonds" or, if appropriate, "school building revenue refunding bonds," and shall additionally be identified by the name of the board of education executing the lease. If the commission shall issue more than one (1) series of bonds for the same lessee from time to time, each series, including the first or subsequent to the first, shall additionally be identified distinctly by alphabetical or chronological designation, by date of the bonds, or otherwise as the commission may determine.

(2) For the purpose of determining any limit prescribed by any law for investment of any public funds, or funds of banks, trust companies, insurance companies, building and loan associations, credit unions, pension and retirement funds, and fiduciaries, in obligations of a single obligor, bonds issued by the commission pursuant to KRS 157.615 to 157.640 shall not be deemed to be bonds or obligations of the same obligor except to the aggregate of all series of bonds involving leases of a single board of education.

(3) Bonds issued by the commission under the provisions of KRS 157.615 to 157.640 are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions,

all insurance companies, trust companies, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. The bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

(4) Nothing contained herein shall be construed to prohibit a board of education from electing to issue bonds on the local level through a city, county, or other agency and instrumentality of the board of education, and in such event the commission may enter into a participation agreement with the board of education implementing the commission's participation in the financing plan represented by the bonds. In the event of the issuance of bonds on the local level, the board of education may pledge and assign the commission's participation to the issuer to secure the bonds, and may contract with the issuer to permit the collection by the commission or the issuer of rentals due from the board of education under the lease in the event of a failure by the board of education to make the payments in a timely manner.

SECTION 384. KRS 157.627 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In connection with each bond issue of the commission as defined in KRS 157.615(3) it shall be the duty of the commission:

(1) To require the district board of education to insure the project to its full insurable value, or to the amount of the bonds outstanding from time to time, whichever is the less, against the hazards covered by the standard fire insurance policy with standard endorsement of "extended coverage," and to require that a copy of each policy be delivered to the commission for inspection and for its records;

(2) To require periodic accounting from all depositories of funds, the same to be submitted on forms prepared and supplied by the commission;

(3) To furnish to the certified public accountant auditing the district, summary identification and description of each issue, and to request that the financial records of the board of education relating thereto be audited as a part of the annual audit of the board of education, and that a separate statement or report thereof be filed with the commission;

(4) To send to each board of education at least thirty (30) days before the due date of any rental payment a notice of the amount of rental to become due and the date thereof, and to require acknowledgment thereof; and

(5) To receive from the board of education, satisfactory evidence that sufficient funds have been transmitted to the commission or its agent, or will be so transmitted, in the event of the board's failure to pay debt service and administrative costs when due, as provided in the lease, to notify and request that the department withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated to it, and to request that the department transfer the required amount thereof to the commission for the account of the board of education.

SECTION 385. KRS 157.628 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A school district which has issued revenue bonds according to the provisions of KRS Chapter 162 shall be eligible to participate in a reimbursement schedule if all of the following conditions are met:

(a) The district met all criteria for first round financing except that the district had no unmet needs on its facility survey in effect at that time;

(b) An amended facility survey, approved prior to June 30, 1986, is on file with the Department of Education; and

(c) Revenue bonds were issued after January 1, 1986, and prior to January 1, 1987.

(2) Annual reimbursement shall be provided for bond debt service equal to the amount to which the district would have been entitled if the facility survey had been updated prior to first round funding.

SECTION 386. KRS 157.630 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Bonds of the commission shall be sold in such form and in such manner as the commission deems appropriate in accordance with prevailing market conditions. If the bonds are sold on the basis of sealed bids or proposals, the "publication area," as that term is used in KRS Chapter 424, shall not be deemed to be the area within which the office of the commission is situated, but shall be deemed to be the "publication area" of the board of education executing the lease. If the bonds are sold on the basis of sealed bids or proposals, the sale shall be publicly advertised by means of a notice conforming to the provisions of KRS 424.140, and the same shall be published at least one (1) time, at least seven (7) days in advance of the date set forth for opening bids, in a daily newspaper having bona fide general circulation throughout the Commonwealth. If such publication is made, it shall be sufficient for publication in the "publication area" to be made only one (1) time, at least seven (7) days in advance of the date set forth for the opening of bids. If a copy of the sale notice be delivered or transmitted in good faith to the qualified newspaper of the "publication area" in time for publication in an issue thereof published seven (7) days or more in advance of the date set forth for the opening of bids, and with direction for publication therein, any failure of such newspaper to make publication as directed shall not invalidate the sale of the bonds by the commission on the designated date, nor require postponement or cancellation thereof.

SECTION 387. KRS 157.632 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

It shall be the duty of the department, upon written request of the commission:

(1) To cause the certified public accountant auditing the district to audit the financial records relating to any identified and described bond issue of the commission, as an incident to the certified public accountant's next ensuing annual audit of such board of education, and each subsequent annual audit; and to provide a statement or report to the commission.

(2) Upon receiving a notification and request from the commission to ascertain whether the lease of the board of education has been renewed and is in force in accordance with its terms, and if the same is ascertained to be in force; to withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated by the department for the board of education, and to comply with the terms of the notification and request of the commission for the account of said board of education.

SECTION 388. KRS 157.635 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The School Facilities Construction Commission is hereby authorized to issue revenue bonds for the purpose of financing projects authorized by the General Assembly based upon lease rental agreements with the Kentucky Department of Education for the purpose of:

(a) Acquiring sites and building vocational schools which are to be owned by the state and operated by the Department of Education;

(b) Constructing additions and extensions to the School for the Deaf and the School for the Blind which are owned by the state and operated by the Department of Education; and

(c) Building projects for vocational rehabilitation programs which are owned by the state and operated by the Department of Education.

(2) In exercising the authority in subsection (1) of this section, the commission will act under the applicable provisions of KRS Chapter 56.

SECTION 389. KRS 157.640 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The School Facilities Construction Commission is the successor agency of the Kentucky School Building Authority created by the 1978 Acts of the General Assembly Chapter 153. All powers, duties, obligations and assets of the Kentucky School Building Authority, including an obligation for only those projects which have been approved for funding or partial funding as of July 1, 1985, and for which funds have been appropriated by the General Assembly as of June 30, 1986, are hereby transferred to the School Facilities Construction Commission. The commission is hereby empowered with all rights of successorship necessary to assure continuance of all legal and contractual functions and liabilities associated with the outstanding bonds issued in the name of the Kentucky School Building Authority and may refund such bonds previously issued in the name of the Kentucky School Building Authority.

SECTION 390. KRS 157.710 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in KRS 157.720 to 157.750, unless the context requires otherwise:

(1) "Applicant" means an educational institution which has made application for a grant-in-aid as authorized by KRS 157.720 to 157.750;

(2) "Board" means the board of directors of the Bluegrass State Skills Corporation;

(3) "Business and industry" means a private corporation, institution, firm, person, group or association of the same, concerned with commerce, trade, manufacturing or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth;

(4) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;

(5) "Educational institution" means a public or non-public secondary or post-secondary institution or an independent institution within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level;

(6) "Grant-in-aid" means funding that is provided to an educational institution by the BSSC for the development or expansion of a program as provided in this chapter;

(7) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:

(a) Classroom instruction;

(b) Classroom related field, shop, factory, office or laboratory work; and

(c) Entry level training, job upgrading, retraining, and advance training.

(8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

SECTION 391. KRS 157.730 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but not limited to the following:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its function and duties;

(2) To adopt an official seal;

(3) To sue and be sued in its own name;

(4) To make contracts and execute all instruments necessary or convenient for the conduct of its business;

(5) To make, execute and effectuate all agreements with any federal or state agency or any person, corporation, association, partnership or other organization or entity necessary to accomplish the purposes of this chapter;

(6) To procure sufficient insurance coverage against any losses in connection with its property;

(7) To accept any and all donations, grants, bequests, and devices, conditional or otherwise, of money, property, service, or other things of value which may be received from the United States, or any agency thereof, any governmental agency, an institution, person, firm or corporation, public and private, to be held, used or applied solely for the purposes specified in KRS 157.710 to 157.750. Receipt of each donation or grant shall be detailed in the annual report of the corporation. Such reports shall include the identity of the donor and the nature of the transaction;

(8) To collect and disseminate to interested individuals, in cooperation with and through any agencies of federal, state and municipal government, information concerning areas of present and projected employment need, programs of skills training and education consistent therewith and any other relevant information;

(9) To provide grants-in-aid to educational institutions to encourage and facilitate the formation of comprehensive coöperative relationships with business and industry which secure for such institutions the information, technical assistance and financial support necessary for the development and significant expansion of programs of skills training and education consistent with employment need;

(10) To prepare, publish and distribute, with or without charge as the corporation may determine, such technical studies, reports, bulletins, and other materials as it deems appropriate; and

(11) To organize, conduct or sponsor special institutes, conferences, demonstrations, and studies to effectuate the purposes of KRS 157.710 to 157.750.

SECTION 392. KRS 157.740 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions,

not in excess of two hundred thousand dollars ($200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) To qualify for a grant-in-aid, an educational institution shall submit an application to the corporation which contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities and materials; and a statement of the technical assistance and financial support for the program received or pledged from business and industry.

(3) Approval of the grant-in-aid application by the board, shall be based upon the following criteria:

(a) The program must be within the scope of KRS 157.710 to 157.750;

(b) Participants in the program must be limited to citizens of the Commonwealth;

(c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;

(d) The grant-in-aid must be essential to the success of the program as the resources of the applicant are inadequate to attract the technical assistance and financial support necessary from business and industry;

(e) The applicant must have obtained a firm commitment from business and industry for the information, technical assistance and financial support which, together, with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid; and

(f) The applicant must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation.

SECTION 393. KRS 157.750 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The corporation shall annually submit a complete and detailed report of its activities within ninety (90) days after the end of each fiscal year to the Legislative Research Commission and to the Governor. The annual report shall include but not be limited to descriptions of all programs funded, an evaluation of the performance of each program, a summary of expenditures, and a detailed description of the participants.

SECTION 394. KRS 157.990 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any person who willfully violates any of the provisions of KRS 157.100 to 157.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(2) Any person who willfully violates any of the provisions of KRS 157.310 to 157.440 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

SECTION 395. KRS 158.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A uniform system of common schools shall be maintained in Kentucky.

(2) Local school districts may, with approval of local boards of education, provide special programs and services to one (1) or more areas of the district in contrast to other areas where the variation is a reasonable one based on an attempt to equalize the education progress of the students within the district.

SECTION 396. KRS 158.050 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school year shall begin on July 1 and end on June 30.

SECTION 397. KRS 158.080 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Private and parochial schools shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state, consistent with KRS 156.445(2). Except in those school districts operating a year-round school program as defined in KRS 157.510(4), the term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides. In those school districts which are operating a year-round school program, the minimum term of private and parochial schools shall be one hundred eighty-five (185) days.

SECTION 398. KRS 158.115 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each county may furnish transportation from its general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the common schools, to supplement the present school bus transportation system for the aid and benefit of all pupils of elementary grade attending school in compliance with the compulsory school attendance laws of the Commonwealth of Kentucky who do not reside within reasonable walking distance of the school they attend and where there are no sidewalks along the highway they are compelled to travel; and any county may provide transportation from its general funds to supplement the present school bus transportation system for the aid of any pupil of any grade who does not live within reasonable walking distance of the school attended by him in compliance with the compulsory school attendance laws and where there are no sidewalks along the highway he is compelled to travel.

(2) Each county may provide transportation by means of local board of education operated transportation systems, transit authorities organized and operating pursuant to KRS Chapter 96A, local governmental mass transit systems and individual contracted buses and vehicles.

SECTION 399. KRS 158.140 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one district to the school of another district an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

SECTION 400. KRS 158.150 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property as well as off school property at school sponsored activities constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying or damaging the personal property of school personnel on school property, off school property, or at school sponsored activities constitutes cause for suspension or expulsion from school.

(2) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(3) The superintendent, principal, assistant principal or head teacher of any school may suspend a pupil

but shall report such action in writing immediately to the superintendent and to the parent, guardian or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but such action shall not be taken until the parent, guardian or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

SECTION 401. KRS 158.160 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If any family has an infectious or communicable disease, no member of the family shall attend any school until the superintendent of the district, upon the advice of the health officer of the county in which the school district is located, allows them to do so. During the prevalence in any district of dangerous epidemics, the board of education of the school district may order the school closed.

SECTION 402. KRS 158.177 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In any public school instruction concerning the theories of the creation of man and the earth, and which involves the theory thereon commonly known as evolution, any teacher so desiring may include as a portion of such instruction the theory of creation as presented in the Bible, and may accordingly read such passages in the Bible as are deemed necessary for instruction on the theory of creation, thereby affording students a choice as to which such theory to accept.

(2) For those students receiving such instruction, and who accept the Bible theory of creation, credit shall be permitted on any examination in which adherence to such theory is propounded, provided the response is correct according to the instruction received.

(3) No teacher in a public school may stress any particular denominational religious belief.

(4) This section is not to be construed as being adverse to any decision which has been rendered by any court of competent jurisdiction.

SECTION 403. KRS 158.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No book or other publication of a sectarian, infidel or immoral character, or that reflects on any religious denomination, shall be used or distributed in any common school. No sectarian, infidel or immoral doctrine shall be taught in any common school.

SECTION 404. KRS 158.290 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) No student shall be compelled to solicit or meet any kind of quota in a fund raising activity. Solicitations by students shall be on a completely voluntary basis and no grade changes or any other sanctions shall be imposed for refusal or failure of a student to engage in any solicitations or other fund raising activity. No public school shall promote or engage in a school wide fund raising project without the prior approval of the local board of education.

(2) Nothing in this section shall prohibit student participation in classes in which salesmanship is an integral part of the prescribed curriculum.

SECTION 405. KRS 158.360 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Board for Elementary and Secondary Education shall authorize grants to selected local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(2) Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(3) Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(4) Only those parents who have a three (3) or four (4) year old child and do not possess a high school diploma or high school equivalency certificate shall be eligible.

(5) Local education agencies shall be eligible for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district. Selection for grant awards shall be based on the educational need of the adult population and the incidence of unemployment in the county or district.

(6) Each grant proposal shall include a plan for providing the following:

(a) Identification and recruitment of eligible participants;

(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

(c) Transportation, lunch and free general education development testing for program participants;

(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs; and

(e) Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children.

SECTION 406. KRS 158.775 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Board for Elementary and Secondary Education shall select school districts to participate in pilot programs based upon the criteria recommended by the advisory committee on writing.

(2) The State Board for Elementary and Secondary Education shall authorize grants of funds to school districts selected for participation in the program based on the grant allotment system recommended by the advisory committee on writing.

(3) Teacher aides may be employed in selected districts to assist in the implementation of this program. Such aides shall meet the same qualifications required of kindergarten aides in KRS 161.044.

SECTION 407. KRS 158.785 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The state Department of Education shall, pursuant to State Board for Elementary and Secondary Education criteria, identify the local districts most in need of management assistance. The selection process shall include an examination of all aspects of district operations, including but not limited to:

(a) The planning, maintenance and operation of physical plants;

(b) The maintenance and operation of student transportation systems;

(c) Personnel administration;

(d) Governance and executive leadership;

(e) Fiscal management;

(f) Professional performance, staff development and evaluation; and

(g) School-community relationships.

(2) The State Board for Elementary and Secondary Education shall select the local districts to receive management assistance and shall enter into an agreement with each local board of education. The agreement shall specify the plan of action based upon the needs of the district as identified by the department and adopted by the local board of education.

(3) For each district selected, a management assistance team shall be assigned to provide intensive on-site assistance to the district for a period not to exceed one (1) year.

(4) The Department of Education, subject to the approval of the board of education, shall contract with persons outside the department to serve on the management assistance teams. The department is authorized to enter into partnership arrangements with business, industry, educational institutions and local school districts in order to obtain qualified persons. The manager of each team shall be an educator who has experience in the management of a local school district or educational institution. The other members of the team shall possess skills, experience or credentials as appropriate to the needs of the local district.

(5) The State Board for Elementary and Secondary Education and the local board of education shall develop a work program to address the deficiencies within the district. The program shall at a minimum include:

(a) Defining the problems in the management and performance of the district;

(b) Developing or modifying policies and procedures to address the problems;

(c) Training or retraining of personnel;

(d) Implementing the new or revised policies and procedures; and

(e) Monitoring and evaluating the implementation of the results.

(6) Each management assistance team shall submit to the local board of education regular progress reports. Before the termination of the assistance project, a final report shall be submitted to the State Board for Elementary and Secondary Education for its approval.

SECTION 408. KRS 158.990 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any member of a school board who votes to permit entrance to a school of any child not eligible therefor under the provisions of KRS 158.030 shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00).

SECTION 409. KRS 159.040 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Attendance at private and parochial schools shall be kept by the authorities of such schools in a register provided by the State Board for Elementary and Secondary Education, and such school authorities shall make attendance and scholarship reports in the same manner as is required by law or by regulation of the State Board for Elementary and Secondary Education of public school officials. Such schools shall at all times be open to inspection by directors of pupil personnel and officials of the Department of Education.

SECTION 410. KRS 159.090 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The boards of education of two (2) or more contiguous school districts may unite to form one (1) attendance district and shall appoint such directors of pupil personnel as are necessary. The superintendents of the districts concerned shall jointly make the nominations and recommendations relating to the directors of pupil personnel to the boards of education meeting jointly, and a majority vote of each board shall determine all questions. The salary of directors of pupil personnel in united districts shall be borne by the employing boards in the proportion that the average daily attendance of each district bears to the total average daily attendance of the united district.

SECTION 411. KRS 159.130 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The director of pupil personnel and his assistants shall be vested with the powers of peace officers, provided, however, that they shall not have the authority to serve warrants. They may investigate in their district any case of nonattendance at school of any child of compulsory school age or suspected of being of that age. They may take such action in accordance with law as the superintendent directs. They may under the direction of the superintendent of schools and the board of education or the State Board for Elementary and Secondary Education, institute proceedings against any person violating any provisions of the laws relating to compulsory attendance and the employment of children. They may enter all places where children are employed and do whatever is necessary to enforce the laws relating to compulsory attendance and employment of children of compulsory school age. No person shall refuse to permit or in any way interfere with the entrance therein of a director of pupil personnel or in any way interfere with any investigation therein.

SECTION 412. KRS 159.150 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any child who has been absent from school without valid excuse for three (3) or more days, or tardy on three (3) or more days, is a truant. Any child who has been reported as a truant three (3) or more times is an habitual truant. Being absent for less than half of a school day shall be regarded as being tardy.

SECTION 413. KRS 159.170 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Whenever any child of compulsory school age withdraws from school, the teacher of the child shall ascertain the reason. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of schools of the district in which the school is located. If the child has withdrawn because of change of residence, the next residence shall be ascertained and included in the report. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of his new residence to the superintendent of schools of the district to which the child has moved. The State Board for Elementary and Secondary Education shall prescribe the forms to be used in the operation of this section.

SECTION 414. KRS 159.180 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Every parent, guardian or custodian of a child residing in any school district in this state is legally responsible for any violation of KRS 159.010 to 159.170 by the child. Before any proceedings are instituted against the parent, guardian or custodian for violation of KRS 159.010 to 159.170, a written notice of the violation shall be served on the person by the director of pupil personnel, and one (1) day shall be given for the termination of the violation. After such notice, if the violation is continued or if the provisions of KRS 159.010 to 159.170 are again violated during the school term by the child, no further notice shall be necessary and the parent or guardian shall be punishable as provided in KRS 159.990. A notice by certified mail, return receipt requested, or by personal service by the director of pupil personnel shall be a legal notice.

SECTION 415. KRS 159.990 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any parent, guardian or custodian who willfully fails to comply with the requirements of KRS 159.010 to 159.170 shall be fined not more than ten dollars ($10.00) for the first offense, and not more than twenty dollars ($20.00) for each subsequent offense. The court trying the case may suspend enforcement of the fine if the child is immediately placed in attendance at a school, and may finally remit the fine if the attendance continues regularly for the full school term. School attendance may be proved by an attested certificate of the principal or teacher in charge of the school.

(2) Any principal, teacher, director of pupil personnel, assistant director of pupil personnel or other school officer who willfully fails to comply with the provisions of KRS 159.010 to 159.250, or of KRS 160.330 shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00). Upon conviction under this subsection a director of pupil personnel or assistant director of pupil personnel shall be removed from office and have his certificate revoked, and a principal, teacher or other school officer may have his certificate revoked.

(3) Any person, other than those persons mentioned in subsections (1) and (2) of this section, who fails to comply with any of the provisions of this chapter relating to compulsory attendance, or who violates any of the provisions of KRS 159.130, shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200), or imprisoned in the county jail for not more than sixty (60) days, or both.

(4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a fine of not less than fifty dollars ($50.00) and shall be liable to the punishment prescribed by law for the crime of false swearing. If he is an officer he shall be removed from office, and if he is a director of pupil personnel his certificate shall be revoked.

(5) All fines imposed and all sums required to be paid as penalties under this section shall, after payment of the costs of prosecution and recovery thereof, be paid into the treasury of the district board of education and become a part of the school fund of the district.

SECTION 416. KRS 160.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each county in this state constitutes a county school district, except that in counties in which there are independent school districts the county school district consists of the remainder of the county outside of the boundaries of the independent school districts.

SECTION 417. KRS 160.040 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Boards of education of any two (2) or more contiguous school districts may by concurrent action merge their districts into one (1). In case of a merger the members of the boards of education of the merged districts may serve out the terms for which they were elected. The resulting district shall take over all the assets and legal liabilities of the districts joining in the merger. Tax levies authorized for the payment of interest and the retirement of bonds or to create sinking funds for such purposes shall continue to be levied and collected over the same area by or for the new board in accordance with the laws under which the levies were originally made until all bonded obligations of the old district have been retired.

SECTION 418. KRS 160.042 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Upon a merger under the provisions of KRS 160.040 and 160.041 of an independent school district in a city of the first class with a county school district in counties containing a city of the first class, the members of the county board of education of the merged county school district, shall be elected pursuant to KRS 160.200 and 160.210.

(2) Each member of the respective boards of education at the time of the merger of the districts, may continue to hold office until the expiration of his or her term of office, except as provided in KRS 160.200 (4) but any vacancy occurring among such members for any reason shall not be filled.

SECTION 419. KRS 160.044 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) At the regular November election during the first even numbered year nearest to the time of the merger of the districts, as above set out, two (2) members of the county board of education shall be elected from the county at large for a term of four (4) years, and two (2) years after such first election, three (3) members of the county board of education shall be elected for a term of four (4) years, and in each even numbered year thereafter an election shall be held from the county at large to fill the membership of the county board of education for the term that will expire on the first Monday in January following, and the regularly elected members shall hold office for four (4) years, and until their successors are elected and qualified.

(2) Any vacancy occurring in the membership of the county board after members have been elected from the county at large shall be filled as now provided by KRS 160.190.

SECTION 420. KRS 160.065 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

When any property assessable for school purposes in one (1) school district is annexed by or transferred to another school district, the recipient district shall assume a part of the indebtedness, if any, of the other school district incurred for school buildings and grounds in the proportion the assessed valuation of property taxable for school purposes transferred bears to the total assessed valuation of property taxable for school purposes in the district losing the territory.

SECTION 421. KRS 160.105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The State Board for Elementary and Secondary Education shall by regulation require each school district to provide for fire and extended insurance coverage on each building owned by the board which is not surplus to its needs as shown by the approved facilities plan. The requirement for such coverage shall not exceed replacement cost and shall allow for the features of co-insurance and deductibles.

SECTION 422. KRS 160.155 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in KRS 160.157, unless the context otherwise requires:

(1) "Board" means the board of education of a local school district;

(2) "Community school" means a school that makes its facilities available for citizen use, coordinates activities of local citizens in identifying program needs and establishing priorities, identifies and utilizes available program resources, and assists in the initiation of programs to improve the cultural, social, recreational, and educational opportunities available in a community;

(3) "Community education program" means a program in which a public building, including a public elementary or secondary school, is used as a community center operated by a local education agency in cooperation with other groups in the community, community organizations, and local governmental agencies to provide educational, recreational, cultural, health care, and other related community services in accordance with the needs, interests, and concerns of the community;

(4) "Community education director" means an employee of a local school district who is responsible for a system-wide program of community education in a school district;

(5) "Community education coordinator" means an employee of a local school district who is responsible for the coordination of a specific program or other component of a total community education program within a local school district or community.

SECTION 423. KRS 160.156 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Board for Elementary and Secondary Education shall develop a state plan for community education which sets forth the goals and objectives of the program and establishes a system of priorities for targeting available resources on the areas with the greatest need.

(2) The State Board for Elementary and Secondary Education shall administer a grant program pursuant to KRS 160.155 and 160.157 to provide money to local school districts to:

(a) Support staff to plan and manage programs and services for community education; and

(b) Support programs that are targeted to the greatest educational needs in the community.

(3) Districts shall provide a twenty-five percent (25%) cash match in order to receive state community education funding.

SECTION 424. KRS 160.157 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to the availability of funds, a public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the State Board for Elementary and Secondary Education in the manner and form prescribed by the Department of Education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting the needs of citizens;

(c) Establishes an advisory council, appointed by the board of education, to assist in conducting community needs assessments and recommending program priorities;

(d) Employs at least one (1) full-time community education director;

(2) Two (2) or more school districts may combine for purposes of qualifying as a community school. Any qualified school district or combination of school districts with a total population of five thousand (5,000) or more persons is eligible to receive state funding equal to seventy-five percent (75%) of the state average of the salaries paid to local instructional supervisors. Certification requirements for the position shall be developed by the Department of Education.

(3) Funded positions shall be awarded to qualified districts in the ratio of district population to state population.

(4) Each community school receiving state funds for a community education program must submit an annual report to the state Department of Education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of the community school designation.

SECTION 425. KRS 160.220 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All elections for members of boards of education shall be by secret vote. The county clerk shall cause to be prepared for presentation to the voters the names of legally eligible candidates who have filed a petition as provided in KRS 118.315.

SECTION 426. KRS 160.230 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The candidate names shall be presented to the voters in the form prescribed by the general election law, except that no party emblem or distinguishing mark shall be used, save the words "School Candidates". The order in which the names of the candidates are to appear shall be determined by lot. As many additional spaces shall be left blank as there are members to be elected from the district or division as the case may be.

SECTION 427. KRS 160.240 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The general election laws shall apply to all elections of school board members.

(2) In school districts embracing cities of the first five (5) classes the expense of the election shall be paid by the city from its general funds. In all other districts the expense shall be paid by the fiscal court out of its general funds.

SECTION 428. KRS 160.250 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) No election officer or other person within an election booth shall tell or indicate to a voter the political affiliation of any candidate.

(2) An election booth means an area in which a voter casts his vote which is designed in such a manner that the secrecy of the vote is insured.

SECTION 429. KRS 160.270 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each board of education shall hold at least one (1) regular meeting each month, at a time and place fixed by the board. Special meetings may be called by the chairman. On request of three (3) members of the board the secretary shall call a special meeting. Each member of the board shall have timely notice of each meeting and the nature, object and purpose for which it is called. Any board member failing to attend three (3) consecutive regular meetings, unless excused by the board for reason satisfactory to it, shall be removed from office pursuant to KRS 415.050 and 415.060. A majority of the board shall constitute a quorum for the transaction of business, but a concurring vote by a majority of the board, the number of board members in the quorum notwithstanding, shall be necessary to take any particular action unless otherwise specified by statute.

(2) The secretary shall be present at the meetings of the board except when his own tenure, salary or the administration of his office is under consideration and shall record in a book provided for that purpose all its official proceedings, which shall be a public record open to inspection.

SECTION 430. KRS 160.280 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of forty dollars ($40) in any calendar year, and their actual expenses for each regular or special meeting attended. In no case shall the expenses incurred within the district or per diem of any member exceed one thousand dollars ($1,000) in any calendar year.

(2) Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of forty dollars ($40), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed two thousand five hundred dollars ($2,500) per calendar year.

(3) Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

(4) All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

SECTION 431. KRS 160.295 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of education of each public school district in the Commonwealth may adopt and promulgate a code of student rights and responsibilities for secondary schools from recommendations of a committee composed of students, faculty, parents, and school district administrative personnel.

(2) Such committee shall consist of two (2) students, two (2) parents of students, two (2) faculty members, two (2) representatives from administrative personnel of the district, and one (1) member of the local school board.

(3) The student, and faculty members of such committee shall be elected by their peers in the local school district, the administrative personnel shall be appointed by the school district superintendent, and the parents selected by the faculty and student body. Members of such committee shall serve for a term of one (1) year and may be re-elected or re-appointed in following years. Initial composition of the elected members of such committee shall be by the following:

(a) The district superintendent shall notify each school within the district, each school principal or head teacher, the students of the district, and the parents of students within the district as to the method for receiving nominations for membership on the committee and of the methods by which the election of members shall take place. Such notification shall take place on or before the first day of school for each school term.

(b) Nominations for the student, faculty, and parent members of the committee shall be received in writing by the district superintendent within thirty (30) days following the commencement of each school term.

(c) The election of student, faculty, and parent members of the committee shall be held within fourteen (14) days following the closing of nominations under the supervision of the district superintendent.

(d) The initial meeting of the elected and appointed members shall be no later than fourteen (14) days following the election.

(4) Each committee member shall be entitled to a single vote and any code of student rights and responsibilities adopted by a majority of the committee membership shall be submitted to the district board of education which may cause such code, in whole or in part, to be implemented in the public schools of the district.

(5) All meetings of the committee shall be open to the public and the committee shall hold at least one (1) public hearing on the proposed code before it is adopted and submitted to the district board of education for implementation.

(6) The code of student rights and responsibilities adopted by the committee may define rights and responsibilities regarding, but not limited to, the following:

(a) Right of expression, including, but not limited to, appearance, assembly, association, and circulation of petitions and literature;

(b) Right to participate in decision-making procedures directly affecting students;

(c) Right to procedural due process concerning major disciplinary action, as defined by the code;

(d) Right to receive academic grades based only upon academic performance;

(e) Right to freedom from abuse and threat of abuse by members of school faculties and administration personnel; and

(f) Right of access by a student to his or her own records and guarantee of the confidentiality of a student's academic records outside of the school system, except upon written authorization of the student or his or her parents or guardians.

(7) Students shall refrain from activity which materially or substantially disrupts the educational process or presents a clear and present danger to the health and safety of persons or property, or infringes on the rights of others.

SECTION 432. KRS 160.297 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If a board of education of a public school district provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

SECTION 433. KRS 160.300 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A board of education may, in any investigation or proceeding before it, concerning a matter that may be a proper subject of inquiry by it, summon witnesses by subpoena, enforce their attendance, and require that they testify under properly administered oath.

(2) No person so summoned shall refuse to attend or to produce a written statement to be used as legal evidence in the investigation or proceeding, or, if present, refuse to testify concerning any matter that may be a proper subject of inquiry.

SECTION 434. KRS 160.305 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources may enter into a contract with the local board of education of any school district in the Commonwealth for the use of school buses to transport persons eligible for transportation services at times when the buses are not needed to transport students to or from school or school events. Persons eligible for such transportation services shall be:

(a) Sixty-two (62) years of age or older;

(b) Physically or mentally handicapped; or

(c) Any other person designated by the Cabinet for Human Resources as appropriate for such transportation services.

(2) Before such a contract is entered into, the Cabinet for Human Resources shall formulate a plan for the use of school buses for such purposes and shall submit it to the local board of education for its approval or disapproval. The plan for the use of school buses for such transportation purposes shall include routes, schedules, cost and any other matters deemed necessary by both parties.

(3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the Cabinet for Human Resources.

SECTION 435. KRS 160.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each board of education may set aside funds to provide for liability and indemnity insurance against the negligence of the drivers or operators of school buses, other motor vehicles, and mobile equipment owned or operated by the board. If the transportation of pupils is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any school child or death or injury of any school child or other person.

SECTION 436. KRS 160.320 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any board of education may make provision for roads or passways to its school buildings to accommodate all pupils who are entitled to attend school, and may apply to the county judge/executive or the governing authority of the city having jurisdiction to open the same as other roads and passways are opened for public necessity and convenience. If there is no road or passway from the residence of any pupil to the school building which he attends it shall be lawful for such pupil, in attending school, to walk over the property of any person between the residence of the pupil and the school building.

SECTION 437. KRS 160.330 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each board of education may furnish necessary school supplies free of charge to indigent children in its school district or to such other children as it deems advisable, under such rules and regulations as it may adopt, except that free textbooks must be provided to indigent children as provided in KRS 157.110.

SECTION 438. KRS 160.400 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

An outgoing superintendent shall, before his last month's salary is paid, make all reports required by law to date of his retirement and shall have information assembled to date of his retirement for any reports to be made by the incoming superintendent.

SECTION 439. KRS 160.410 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A board of education may pay the necessary expenses of its superintendent and other employees when such expenses are incurred on order of the board.

SECTION 440. KRS 160.450 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The fiscal year of all school districts shall begin on July 1 and end on June 30.

SECTION 441. KRS 160.472 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 160 to the contrary, the tax rate on motor vehicles and trailers for the preceding year shall be applied to the preceding year's total valuation of such motor vehicles and trailers and the resulting amount added to the revenue from other tangible personal property for purposes of determining the maximum permissible school district revenue under KRS 160.470.

SECTION 442. KRS 160.482 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

To help provide for an efficient system of common schools in any county having three hundred thousand (300,000) or more inhabitants, the General Assembly delegates to the fiscal courts and boards of education of any such county the powers and duties set forth in KRS 160.482 to 160.488. The General Assembly finds and declares that in any such county there are besetting public education special problich can best be solved pursuant to KRS 160.482 to 160.488. Furthermore, the General Assembly declares that the public policy of the Commonwealth is not offended but is best served by the authority of KRS 160.482 to 160.488 for the imposition, payment, and collection of license fees on businesses, trades, occupations, and professions over and above license fees that may already be imposed thereon.

SECTION 443. KRS 160.483 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The license fees imposed under KRS 160.482 to 160.488 on businesses, trades, occupations, and professions shall be at a single, uniform percentage rate not to exceed one-half of one percent (.5%) of (a) salaries, wages and commissions, and other compensations earned by persons within the county for work done and services performed or rendered in the county, and (b) the net profits of all businesses, trades, occupations, and professions, for activities conducted in the county. The license fees, once imposed, shall continue from year to year until changed as prescribed in KRS 160.484. No public service company which pays an ad valorem tax is required to pay a license fee hereunder. No license fee shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training. No license tax shall be collected from any individual who is not a resident of the county of the tax-levying authority imposing the tax.

SECTION 444. KRS 160.484 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as provided in subsections (2), (3), and (4) the fiscal court has discretion to impose or not impose the license fees authorized by KRS 160.482 to 160.488 at a percentage rate, not to exceed one-half of one percent (.5%), determined by the fiscal court. A fiscal court shall not proceed under this subsection without first giving all boards of education in the county thirty (30) days notice of its intention.

(2) If one (1) or more boards of education of school districts within the county which contain at least ninety percent (90%) of county's inhabitants, in the same calendar year certify to the fiscal court requests for a license fee at an identical percentage rate, not to exceed one-half of one percent (.5%), then the fiscal court shall impose such license fees at the requested rate.

(3) Any license fees imposed under subsections (1) or (2) shall remain in full effect from year to year until all boards of education within the county have certified to the fiscal court requests for a reduction in the percentage rate theretofore imposed. Thereafter, the fiscal court shall reduce the rate to the highest rate certified as yet necessary by any board of education in the county. The fiscal court may require each board of education to make no more than one (1) certificate annually.

(4) In any calendar year in which one (1) or more boards of education of school districts containing at least ninety percent (90%) of the county's inhabitants make a certification pursuant to subsection (2) for a rate which is at a higher percentage than any currently imposed, the fiscal court shall impose the license fee at the higher rate and any rate imposed pursuant to subsections (1), (2), or (3) shall be rescinded upon the date the new rate takes effect.

SECTION 445. KRS 160.485 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The imposition of license fees authorized hereby shall be by order or resolution of the fiscal court. There shall be no more than one (1) such order or resolution passed in any one (1) calendar year. In the case of license fees required to be imposed pursuant to subsection (2) of KRS 160.484 the fiscal court shall make the order or resolution within ten (10) days following receipt of the first request which makes subsection (2) of KRS 160.484 effective.

(2) The order or resolution of the fiscal court imposing license fees pursuant to subsections (1), (2), or (4) of KRS 160.484 shall go into effect thirty (30) days after its passage. If during the thirty (30) days next following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen percent (15%) of the votes cast in the county for the office receiving the greatest total vote at the last preceding presidential election is presented to the fiscal court protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect until after the election referred to in subsection (3) of this section. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall give necessary and appropriate aid to the fiscal court so that the latter body may make the initial, but not conclusive, determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(3) Thereupon the fiscal court shall submit to the voters of the county at the next regular election or called common school district election, either of which to be held not less than sixty (60) days from the date of passage of said order or resolution, the question as to whether such license fees for common school purposes shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order or resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order or resolution shall go into effect.

(4) License fees imposed pursuant to KRS 160.482 to 160.488 shall become applicable upon the date specified in the order or resolution, but in no event later than the first day of the calendar year first beginning after the day upon which the said order or resolution is made.

SECTION 446. KRS 160.487 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any person who has paid the license fees imposed under KRS 160.484 and 160.485 may bring an action for the refund thereof without interest only within one (1) year after the license fees for any year become due. If the court finds that the license fees were invalidly collected for any reason, it shall order a refund thereof.

SECTION 447. KRS 160.488 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) KRS 68.180, 68.185, 68.190 and 160.482 to 160.488 shall not be construed as repealing any other laws of the Commonwealth relating to the levy, assessment, and collection of taxes or license fees but shall be held and construed to authorize an additional license fee, against which the credit allowed by KRS 68.190 does not apply.

(2) KRS 68.180, 68.185, 68.190 and 160.482 to 160.488 shall not in any manner repeal, amend, affect, or apply to any existing statute exempting property from local taxation, or fixing a special rate on proper classification, or imposing a state tax which is declared to be in lieu of all local taxation.

(3) The provisions of any statute relating to ad valorem taxes do not apply to KRS 68.180, 68.185, 68.190 and 160.482 to 160.488 or to the license fees authorized by it.

SECTION 448. KRS 160.500 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) School taxes shall be collected by the sheriff for county school districts and by the regular tax collector of the city or special tax collector for the independent school districts at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond

of the regular or special tax collector shall be made to cover his duties as the tax collector of the school district or districts for which he collects taxes. The tax collector shall be entitled to a fee equal to his expense but not less than one and one-half percent (1 1/2%) and not to exceed the rate of four percent (4%) for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

(2) An independent school district may select a special tax collector to collect its school taxes, and in the event such independent school district does so select a special tax collector, a majority of the members of the independent school district board of education shall fix a fee for such special tax collector at a rate of not less than one and one-half percent (1 1/2%) and not more than four percent (4%) of the school taxes or school funds collected by such special tax collector from the local school levy in such independent school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector except in case an independent district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents (3) for each separate school tax bill, to be paid by the independent district board of education.

(4) The county clerk shall be the ad valorem tax collector for motor vehicle taxes for county and independent school districts, and shall receive a commission of four percent (4%) of all such moneys collected for any school district, which commission shall be deducted monthly before payment to the depository of the district board of education.

(5) For collections related to January 1, 1984, assessments other than motor vehicles, no county or independent school district shall fix a fee for the sheriff or special tax collector at a lesser percentage rate than was fixed in the prior year.

(6) The General Assembly of Kentucky finds that commissions and fees set by the General Assembly for services performed in collecting ad valorem taxes by county clerks are the reasonable costs of collection by county clerks and their offices. The county clerk shall account for all funds collected to each taxing authority; however, in any accounting or settlement with district boards of education, the county clerk shall not be required to itemize any incremental costs in any accounting or settlement for ad valorem taxes collected.

SECTION 449. KRS 160.505 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

KRS 160.500 to the contrary notwithstanding, if a tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall be collected by a board of education, the board of education shall appoint a person who shall be responsible for collection and administration of such tax. If one or more boards of education agree in writing to levy identical taxes authorized by the statutes mentioned hereinabove, the boards of education so agreeing shall jointly appoint a person who shall be responsible for collection and administration of such tax as provided for in KRS 160.593(2). The position may be full-time or part-time and his compensation shall be fixed by the board and/or boards of education. The bond of this person shall be made to cover his duties as tax collector.

SECTION 450. KRS 160.510 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The tax collector shall, on or before the tenth day of each month, pay to the depository of the district board of education the amount of school tax collected up to and including the last day of the preceding month, except that the county clerk shall deduct his collection fee before payment to the district board of education depository. The amount so paid together with the classes of property from which it was received shall be reported in writing to the treasurer of the board. The report shall be accompanied by a duplicate of the receipt for the money given to the tax collector by the depository. The tax collector shall make final settlement with the district board of education at the same time he makes final settlement with the local taxing authority to which he is responsible. Blanks for such purposes shall be furnished by the State Board for Elementary and Secondary Education.

SECTION 451. KRS 160.520 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The laws applying to penalties on and the collection of delinquent school taxes shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of the taxing districts which embrace the various school districts.

SECTION 452. KRS 160.530 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The money collected by taxation under the provisions of KRS 160.460 to 160.520 and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the State Board for Elementary and Secondary Education.

SECTION 453. KRS 160.540 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any board of education may borrow money on the credit of the board and issue negotiable notes in anticipation of revenues from school taxes and state revenue for the fiscal year in which the money is borrowed, and may pledge the anticipated revenues from state and local sources for the payment of principal and interest on the loan. The rate of interest charged shall not exceed the greater of six percent (6%) per annum or seventy percent (70%) of the Federal Reserve discount rate on ninety (90) day commercial paper in effect in the Federal Reserve district in which the loan is made, and the principal shall not exceed seventy-five percent (75%) of the anticipated revenue for the fiscal year in which it is borrowed. In all cases such loans shall be repaid within the fiscal year in which they are borrowed.

SECTION 454. KRS 160.580 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All sums arising from any gift, grant or devise by any person wherein the intent is expressed that the same is to be used to aid in the education of children in any school district in this state shall be held and used for the purposes specified in the gift, grant or devise. The district board of education shall receive the gift, grant or devise for the benefit of the schools of its district and shall hold and use it as requested by the donor or devisor, provided that the purpose for which it is used shall be in harmony with the aims and general program of public education in this state.

SECTION 455. KRS 160.593 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, levy school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648. The imposition of any tax levied under the provisions of 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall be limited to the territory of the school district except as provided in subsection (2) of this section.

(2) Two (2) or more boards of education may agree in writing to levy identical school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633. After the levying in each district so agreeing of a tax under the terms of such agreement, the receipts from said tax shall be held in a common fund and disbursed therefrom to each district on the basis of average daily attendance, as set forth in KRS 160.644. Any districts levying taxes under the terms of such an agreement shall be deemed to constitute a combined taxing district for the purposes of reference in KRS Chapter 160.

SECTION 456. KRS 160.597 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the county board of elections requesting that the order or resolution of such tax be placed before the voters for approval, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The county board of elections shall make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution, and immediately thereafter shall notify the school board that the petition has been received and that the order or resolution levying such tax will be placed before the voters for approval. The board of elections shall certify to the school board within thirty (30) days of receipt of the petition that the petition is properly presented and in compliance with the provisions of this section. If the board of elections finds the petition to be invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof shall be sent by certified mail to the person to whom a receipt was given by the board of elections, and shall be published at least one (1) time in a newspaper

of general circulation within the county containing the school district levying the tax, or if there be no such newspaper, shall be posted at the courthouse door. If good cause is shown, the board of elections shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, such petition to be submitted to the board within thirty (30) days from the date of the written notification of the deficiencies.

(2) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county board of elections shall submit the question to the voters of the school district at the next regular election or a called common school election, either of which is to be held not less than sixty (60) days from the date of the passage of the order or resolution. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately. The cost of a called common school election shall be borne by the school district causing the election to be held.

(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

SECTION 457. KRS 160.601 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be known as an occupational license tax for schools, a utility gross receipts tax for schools, and an excise tax for schools as set out in the following sections.

SECTION 458. KRS 160.603 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No school district board of education shall levy any of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 until after compliance with the following:

(1) The school district board of education desiring to levy any one (1) of these taxes shall give notice of any proposed levy of one (1) of the school taxes. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that such levy is being proposed. The advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(2) The school district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed levy and explaining the reasons for such proposal.

(3) In the event that a combined taxing district desires to levy any one (1) of these taxes, the boards of education shall make a joint advertisement and hold a joint hearing in the manner prescribed heretofore for an individual school district.

SECTION 459. KRS 160.605 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

There is hereby authorized the levy of an occupational license tax for schools on salaries, wages, commissions and other compensation of individuals for work done and services performed or rendered in a county and on the net profits of all businesses, professions or occupations from activities conducted in a county. No public service company which pays an ad valorem tax is required to pay an occupational license tax for schools. No occupational license tax for schools shall be imposed upon or collected from any insurance company, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training.

SECTION 460. KRS 160.607 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The school tax authorized by KRS 160.482 to 160.488 and 160.605 shall be at a single uniform rate not to exceed one-half of one percent (.5%) and shall continue from year to year until changed as prescribed in KRS 160.635 and 160.484.

(2) Any county having three hundred thousand (300,000) or more inhabitants is authorized to increase the school tax rate to exceed the maximum set in subsection (1) of this section by one-quarter of one percent (.25%).

SECTION 461. KRS 160.611 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No occupational license tax for schools shall be collected from any individual who is not a resident of the school district imposing the school tax.

SECTION 462. KRS 160.613 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of electrical energy purchases the electrical energy directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all electrical energy received by the tax rate levied under the provisions of this section.

(3) Gross cost shall be construed in such a way that the consumer shall pay taxes on the same base as that on which a seller who comes within the provisions of subsection (1) of this section is paying.

SECTION 463. KRS 160.615 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school taxes authorized by KRS 160.613 shall be due and payable monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

SECTION 464. KRS 160.617 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 278.040(2), any utility required to pay the tax authorized by KRS 160.613 may increase its rates in any county in which it is required to pay the school tax by three percent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of such increase and shall identify such amount as: "Rate increase for school tax."

SECTION 465. KRS 160.621 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

There is hereby authorized an excise tax for schools not to exceed twenty percent (20%) on a county resident's state individual income tax liability as computed under KRS Chapter 141. The tax year, for purposes of this school tax, shall be the same as the individual's tax year for state income tax purposes. An individual is a resident of a county if, on December 31 of his tax year, he was domiciled in such county.

SECTION 466. KRS 160.625 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school tax authorized by KRS 160.621 shall be self-assessing. Each county resident paying state individual income taxes under KRS Chapter 141 shall file, on or before July 1 of each year for calendar year taxpayers and six (6) months after the close of the tax year for all other taxpayers, with the proper tax collecter a return showing his state individual income tax liability and the amount of county school tax due. This school tax shall be remitted with the return and shall be delinquent six (6) months after the close of the individual's tax year. The district board of education shall furnish the necessary tax returns for the administration of this school tax.

SECTION 467. KRS 160.627 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall, where that cabinet is not acting as such, make available to the tax collector, or to the school district, where the Revenue Cabinet is acting as tax collector under subsection (2) of this section, by October 1 of each year, such information as the tax collector or the school district may request concerning the state income tax liability of the school district residents. Such information shall be made available on a confidential basis as provided in KRS 131.190.

(2) The Revenue Cabinet, upon request by a school district, shall act as tax collector for the school tax authorized by KRS 160.621, and the Revenue Cabinet, where so acting, KRS 160.625 notwithstanding, may in its own discretion incorporate its tax collecting duties with those relative to collection of state individual income taxes under KRS Chapter 141, thereby making an individual's tax payment hereunder due along

with his individual income tax payment and subject to law applicable to such as to time and manner of payment. Tax required to be paid under the provisions of this chapter shall be remitted together with the state income tax return. The Revenue Cabinet, when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes [~~so~~] collected to the school districts for which it is acting as tax collector in a reasonably timely and expeditious manner.

SECTION 468. KRS 160.633 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The proceeds of the tax authorized by KRS 160.621 shall, except when collected pursuant to KRS 160.627(2), be deposited in a special fund until they have been distributed as provided in KRS 160.644.

SECTION 469. KRS 160.635 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

School taxes imposed under the provisions of KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall remain in full force and effect from year to year until the board of education reduces the rate in effect; however, at the time the tax is first levied the board may set a date on which the tax shall expire.

SECTION 470. KRS 160.637 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) "Requesting school districts" shall mean those school districts for which the Revenue Cabinet is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the Revenue Cabinet, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on such basis as may be agreed upon by the boards of education and the tax collector. Such expenses shall be borne by the school districts on a basis proportionate to the revenue received by such districts.

(3) The following shall apply only when the Revenue Cabinet is acting as tax collector under the authority of KRS 160.627(2):

(a) When the cabinet is initially requested to be the tax collector under KRS 160.627(2), the cabinet shall estimate the costs of implementing the administration of such tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the cabinet ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the cabinet. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the cabinet has fully recovered such costs. Such payment shall be made within thirty (30) days of notification by the cabinet.

(b) The Revenue Cabinet shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the cabinet in collecting the excise tax. Such expenses, which shall be deducted by the Revenue Cabinet from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the cabinet to school districts on a basis proportionate to the number of returns processed by the Revenue Cabinet for each district compared to the total processed by the Revenue Cabinet for all districts.

(c) All funds received by the cabinet under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the cabinet for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The cabinet is authorized to retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account is to authorize the Revenue Cabinet to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(2), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(4), within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the cabinet is acting as tax collector under the authority of KRS 160.627(2), the requesting school district is authorized to enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982 any school district which requests the cabinet to collect taxes under the authority of KRS 160.627(2) is required to inform the cabinet of this request not less than one hundred fifty (150) days prior to January 1.

(g) At no time will the cabinet be required to collect taxes authorized in KRS 160.621 of an individual when the cabinet is not pursuing collection of that individual's state income taxes. The cabinet is not required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. In no event shall any individual's tax payment be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor is the only party authorized to audit the Revenue Cabinet with respect to the performance of its duties under KRS 160.621.

SECTION 471. KRS 160.640 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be required to secure a corporate surety bond in an amount to be set by the State Board for Elementary and Secondary Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

SECTION 472. KRS 160.642 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be audited as provided by KRS 156.265 to 156.285.

SECTION 473. KRS 160.648 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any person, individual, or corporation required by the provisions of KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 to file any return or report or furnish any information requested under the authority of KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 who fails to file such return or report or furnish such information on or before the date required shall pay a penalty in the amount of ten dollars ($10.00) for each such failure.

(2) Any person, individual, or corporation who fails to pay, on or before the due date, any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 and levied by the district board of education shall pay a penalty of one percent (1%) per month of the amount of such tax past due until paid.

SECTION 474. KRS 161.040 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No person shall receive or hold any certificate who does not present evidence of good moral character or who is under eighteen (18) years of age.

SECTION 475. KRS 161.145 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) When a physical examination is required as a condition of employment of classified personnel, excluding bus drivers, the examination shall be provided at no cost to the employee by the board. The examination shall be provided by the county health department if appropriate health department personnel are available.

(2) If employee elects to be examined by private physician the cost of examination shall be borne by employee.

(3) Each examination shall include a test for tuberculosis and shall be conducted prior to August 1 of the employable year in which the person is employed.

SECTION 476. KRS 161.153 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any teacher or state employee, except employees subject to the provisions of KRS Chapter 18A, who serves on a jury in any duly constituted local, state or federal court shall be granted leave with full compensation, less any compensation received as jury pay, for the period of his actual jury service, which leave shall be in addition to all other leave to which the teacher or state employee may be entitled.

(2) Any state employee who is subject to the provisions of KRS Chapter 18A and who serves on a jury in any duly constituted local, state or federal court shall be granted leave with full compensation for the period of his actual jury service, which shall be in addition to all other leave to which the employee may be entitled.

SECTION 477. KRS 161.154 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) For the purpose of this section, "school employees" shall mean any person for whom certification is required as a basis of employment in the public schools.

(2) Each district board of education may provide up to three personal leave days per school year to school employees, without loss of salary to the employee and without affecting any other type of leave granted by law, regulation or school board policy. Local boards of education may establish policy regarding the number of teachers who may take personal leave on any one (1) day.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.152 to KRS 161.155 and shall be supported by personal affidavit of the school employee stating that the leave taken is personal in nature; no other reason for or verification of the leave shall be required.

(4) Payments to school employees made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school foundation program fund as established in KRS Chapter 157.

SECTION 478. KRS 161.155 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick-leave bank" shall mean an aggregation of sick-leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick-leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education after June 30, 1985.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick-leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick-leave bank. Such plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick-leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) A teacher may use up to thirty (30) days of sick leave following the adoption of a child or children.

(8) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick-leave day. The rate of compensation for each unused sick-leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick-leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick-leave payment. The accumulation of such days includes unused sick-leave days held by the employee or teacher at the time of implementation of such a program.

(9) Any statute to the contrary notwithstanding, employees who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee was entitled on the date of transfer. Such Credit shall be for the purposes set forth in KRS 161.155(7).

SECTION 479. KRS 161.157 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

An employee of the Department of Education who transfers to become an employee of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3) and shall be allowed credit for each full year of employment with the Department of Education for the determination of pay under the school districts' single salary schedule.

SECTION 480. KRS 161.163 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No application form for teachers used by any school district shall contain any block or question that would require the applicant to disclose his religious affiliation.

SECTION 481. KRS 161.180 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each teacher and administrator in the public schools shall in accordance with the rules, regulations and bylaws of the board of education made and adopted pursuant to KRS 160.290 for the conduct of pupils, hold pupils to a strict account for their conduct on school premises, on the way to and from school, and on school sponsored trips and activities.

(2) The various boards of education of the Commonwealth of Kentucky, and the principals of the public schools, may use teacher's aides in supervisory capacities, such as playground supervision, hallway supervision, lunchroom and cafeteria supervision, and other like duties, including, but not limited to, recreational activities and athletic events, relating to the supervision and control of the conduct of the pupils; and while so engaged, such teacher's aides shall have the same authority and responsibility as is granted to and imposed by law upon teachers in the performance of the same or similar duties.

SECTION 482. KRS 161.185 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Boards of education shall require a member of the school faculty or a member of the administrative staff to accompany students on all school sponsored or school indorsed trips.

SECTION 483. KRS 161.210 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each teacher or other person in the public schools shall make reports and inventories to the district superintendent at the time and in the manner prescribed by the district board of education and the State Board for Elementary and Secondary Education.

(2) No teacher shall willfully make a false monthly or term report of time taught or other item or shall wilfully fail to make a required report.

SECTION 484. KRS 161.230 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Teachers' Retirement System is established as of July 1, 1940, for the purpose of providing retirement allowances for teachers, their beneficiaries and survivors under the provisions of KRS 161.155 and 161.220 to 161.714. The Teachers' Retirement System of the state of Kentucky shall be an independent agency and instrumentality of the Commonwealth and this status shall only be amended or changed by the General Assembly. It shall have the powers and the privileges of a corporation and shall be known as the "Teachers' Retirement System of the State of Kentucky." Its business shall be transacted, its funds invested, and its cash and securities held in that name, or in the name of its nominee provided that its nominee is authorized by board of trustees' resolution solely for the purpose of facilitating the transfer of securities. The board of trustees may designate a nominee as provided in KRS 287.225; or it may name as nominee a partnership composed of selected trustees and employees of the system, and formed for the sole purpose of holding legal or registered title of such securities, and for the transfer of securities in accordance with directions of the board of trustees.

SECTION 485. KRS 161.270 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Vacancies occurring during the terms of the elective members shall be filled by the remaining members of the board of trustees by election for the unexpired terms.

SECTION 486. KRS 161.280 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each member of the board of trustees shall, within ten (10) days after his appointment or election, take an oath that he will support the Constitution of the United States and the Constitution of Kentucky, that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or willingly permit to be violated any provisions of the law applicable to the retirement system. The oath of office shall be subscribed to by the member making it and certified to by the officer before whom it is taken, and shall be immediately filed in the office of the Secretary of State.

SECTION 487. KRS 161.290 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of trustees shall meet on the third Monday during the months of March, June, September, and December of each year. Special meetings may be called by the chairperson upon giving adequate notice to each member of the board of trustees. The business to be transacted at special meetings shall be specified in the notice of the meeting.

(2) The members of the board of trustees shall serve without compensation except that elective trustees shall receive ninety dollars ($90) for each day the board is in session and all elected trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service to the board without limitation of the provisions of KRS Chapters 44 and 45.

(3) The board of trustees may authorize a per diem, not to exceed ninety dollars ($90) per day for trustees representing the system on committees or commissions established by statute or for service as an official representative of the board of trustees.

SECTION 488. KRS 161.300 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Five (5) members of the board of trustees shall constitute a quorum. Each trustee shall be entitled to one (1) vote. Four (4) votes or a majority of the trustees present whichever is the larger number shall be necessary for a decision by the trustees at any meeting of the board.

SECTION 489. KRS 161.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The board of trustees shall from time to time establish rules and regulations for the administration of the funds of the retirement system and for the transaction of business.

SECTION 490. KRS 161.320 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish on or before January 1 of each year a report giving an account of the operation of the system, showing the fiscal transactions of the system for the preceding year and the amount of the accumulated cash and securities of the system, and containing the last balance sheet showing the financial condition of the system.

SECTION 491. KRS 161.330 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The cost of administration of the retirement system shall be paid out of the expense fund established for that purpose by the board of trustees. The board of trustees shall be responsible for the approval and administration of the expense fund budget, subject to the limitations imposed by KRS 161.420 (1). Expenses for the operation of the retirement system shall be in such amounts as the board of trustees approves. The board of trustees is authorized to purchase or lease suitable office quarters for the operation of the retirement system.

SECTION 492. KRS 161.340 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. It shall appoint an executive secretary and fix the compensation for this position without limitation of the provisions of KRS Chapter 18A and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance and similar benefits as provided for other employees of the retirement system. The executive secretary, at the time of appointment or selection, shall be a graduate of a standard four (4) year college, and shall possess such other qualifications as the board of trustees may require by

regulation. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of appointment or selection.

(2) The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all such persons employed by the board shall be paid at such rates and in such amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for such actuarial, auditing, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board without limitations of KRS Chapters 56 and 45A, and shall provide for legal counsel and such other legal services as may be required in defense of trustees, officers and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties in the event such counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary and such employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

SECTION 493. KRS 161.370 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Treasurer, the Auditor of Public Accounts and the Attorney General shall be treasurer, auditor and legal adviser, respectively, of the board of trustees, and shall be liable upon their official bonds for the faithful performance of such duties. They shall serve without compensation. When the board of trustees deems it for the best interests of the retirement system, it may employ attorneys and pay reasonable fees for the services rendered.

(2) The board shall annually procure an audit of the Teachers' Retirement System. The audit shall be conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant and pay reasonable fees for the services rendered. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion.

(3) The board shall make copies of the audit required by this section available for examination by any active contributing member or annuitant in the office of the executive secretary of the Teachers' Retirement System and in such other places as may be necessary to make the audit available to all active contributing members and annuitants. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

SECTION 494. KRS 161.380 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Treasurer is the custodian of all cash funds of the retirement system. He shall honor and pay all vouchers drawn on the retirement funds. The treasurer shall honor and pay all vouchers drawn on the retirement funds for payment of securities purchased upon order of the board. All payments from the several funds of the retirement system shall be made only upon vouchers signed by the executive secretary, the chairman of the board of trustees of the retirement system, or persons delegated in writing by the board.

(2) The board of trustees shall appoint a custodian or custodians of the securities acquired under authority of KRS 161.430 and the custodian or custodians shall be responsible for the safekeeping of all securities placed in his custody. The custodian shall collect dividends, interests, and payments on principal as they become due, and deposit such funds with the State Treasurer for credit to the guarantee fund of the system. The custodian shall, upon delivery of the securities to him, make payment for same as authorized by the board of trustees. When securities are sold by the board of trustees, the custodian shall deliver such securities to the purchaser upon receipt of payment from said purchaser.

(3) The board of trustees may require such surety from the custodian as they deem necessary for the protection of securities held by such custodian.

SECTION 495. KRS 161.390 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The board of trustees shall keep in convenient form the data necessary for the actuarial valuation of the various funds of the retirement system and for determining the administrative costs of the system.

SECTION 496. KRS 161.400 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the conference of actuaries in public practice or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system the actuary shall make an actuarial investigation into the actuarial assumptions used, including but not limited to mortality, earnable interest and service and compensation of the members and beneficiaries of the retirement system, make a valuation of the assets and liabilities of the funds of the system and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(2) Actuarial factors in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees.

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board.

SECTION 497. KRS 161.420 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim the same shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement of a member by reason of service or disability there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances;

(5) The survivor, death and medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.520, 161.525, 161.655 and 161.675. One and eighty-one hundredths percent (1.81%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from state appropriation. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund, and the allowance reserve fund, such amounts as may be held in those funds for the account or benefit of the member. All claims for benefits under KRS 161.520, 161.525, 161.655 and 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements

of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at the beginning of a fiscal year, transfer from the guarantee fund to the survivor, death and medical insurance fund an amount not to exceed two percent (2%) of the income earned from investments during the immediate past year.

SECTION 498. KRS 161.430 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer or other disposition of the investments and moneys of the retirement system. The board may invest in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. The board shall employ an experienced competent investment counselor to advise it on all matters pertaining to investment except the board may employ qualified investment personnel to advise it on investment matters not to exceed twenty-five percent (25%) of the book value of the system's assets. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment subject to the approval of the board of trustees. The board of trustees in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) In accordance with the laws, administrative regulations and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) Not more than twenty-five percent (25%) of any one (1) issue may be purchased as an investment and not more than seven percent (7%) of the invested funds of the system may be invested in the securities of any issuer except in the case of obligations of the United States government. No investment may be made in the obligation of any issuer which has been in default of any of its bonds or interest during a period of the last ten (10) years immediately preceding the purchase.

(5) (a) There shall be no limit on investments in bonds, notes, real estate mortgages, and other obligations of or guaranteed by the United States government, or those for which the credit of the United States government is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, or any other obligations or securities issued or generated by any federal government agency, presently or in the future establishment by an Act of Congress, and as amended or supplemented from time to time;

(b) Except as provided in subsection (a) of this section, no more than seventy-five percent (75%) of the assets of the system may be invested in obligations consisting of bonds, notes, debentures, equipment trust certificates, conditional sales agreements, or other fixed obligations in any form. Purchase of any of the above shall be limited to those which are the direct obligation or are secured by direct obligation, of a corporation organized under the laws of the United States, or any state in the United States, or District of Columbia or are secured by first mortgages in the case of equipment trust certificates and conditional sales agreements. Such bonds or other obligations must be rated at the time of purchase within the three (3) highest classifications established by one (1) or more major rating services, or if not rated, must be certified in writing by one (1) or more such services to be of investment quality equivalent to, or higher than, the quality of bonds rated in the third highest investment classification;

(c) No more than forty percent (40%) of the assets of the system may be invested in common or preferred stocks, issued or guaranteed by a corporation created or existing under the laws of the United States or any state thereof. No more than ten percent (10%) of the assets of the system may be invested in a stock index portfolio that is designed to replicate the movement of the Standard and Poor's composite index of five hundred (500) stocks;

(d) No more than ten percent (10%) of the assets of the system may be invested in real estate, real estate lease agreements, conventional first mortgages on real estate, or shares of beneficial interest in real estate investment trusts established under the laws of the United States or any state thereof;

(e) No more than ten percent (10%) of the assets of the system may be invested in any one (1) category of additional types of investment that are established by regulations by the board of trustees.

(6) No investment or disbursement of funds shall be made unless authorized by the board of trustees.

SECTION 499. KRS 161.440 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

At the end of each fiscal year the board of trustees shall assign from the guarantee fund interest at the rate of three percent (3%) to the teachers' savings fund, the state accumulation fund and the allowance reserve fund, and, effective July 1, 1978, interest at a rate of interest not to exceed the average yield on fixed income security investments for the immediate past year to the survivor, death and medical insurance fund. The amounts so allowed shall be due and payable to the funds and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

SECTION 500. KRS 161.450 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

For the purpose of meeting disbursements for allowances and other payments there may be left available cash on deposit in such sums as the board of trustees may direct in one or more banks or trust companies in this state organized under the laws of this state or of the United States. The total amount of cash on hand and unsecured deposits at any time shall not exceed the receipts of the retirement system from all sources during the previous twelve (12) months.

SECTION 501. KRS 161.460 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No member or employee of the board of trustees shall have any interest in the gain or profits of any investment made by the board, or for himself or as an agent for another use any of the assets of the retirement system in any manner except to make current and necessary payments authorized by the board, or become an indorser, surety or obligor for moneys loaned to or borrowed from the board, or otherwise profit from any transaction of the board.

SECTION 502. KRS 161.470 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The membership of the retirement system shall consist of all new teachers, all present teachers and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership. No person without previous Kentucky service who was age sixty-five (65) or older on July 1, next preceding employment, may become a member of the Teachers' Retirement System.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain such service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions; or

(d) When a teacher, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years.

Upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of such funds at any time. Such terminated service shall be reinstated, if not withdrawn by the member, in the event that the teacher returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the teacher return all of his accumulated contributions with regular interest, including any payments made by the teacher to the state accumulation fund, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the survivor, death and medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for social security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form.

(7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the teacher to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to contributions made to the survivor, death and medical insurance fund.

(8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under such retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

SECTION 503. KRS 161.480 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Each person, upon becoming a member of the retirement system shall file a detailed statement as required by the board of trustees and shall designate a beneficiary to receive any benefits accruing from the death of the member. This designation shall remain in full force and effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except that subsequent marriage or divorce by the member shall void the designation and the spouse of the member at death shall be considered as beneficiary in the event of subsequent marriage, and the estate of the member shall be considered as beneficiary in the event of subsequent divorce, unless the member subsequent to marriage or divorce designates another beneficiary. The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section.

(2) Each retiree shall, prior to the effective date of retirement, designate a beneficiary who shall be eligible to receive such survivors' benefits as may be provided by the retirement option selected by the retiree. A beneficiary designation may not be changed after the effective date of retirement, except that a divorce, annulment, marriage dissolution, or death of a spouse or the death of any other designated beneficiary following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement to provide continuing lifetime benefits to such beneficiary and the retiree may designate a beneficiary to receive any refundable balance at the retiree's death.

SECTION 504. KRS 161.490 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

To the extent to which it is used in determining the liability of any fund of the retirement system, the board of trustees shall ascertain the correctness of the statement filed under KRS 161.480 by the best evidence it is able to obtain. If official records are not available as to length of service, age, salary, or other information required for the administration of the retirement system, the board may use its discretion as to the evidence to be accepted.

SECTION 505. KRS 161.500 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185) day contract for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.

(2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.

SECTION 506. KRS 161.507 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) An active contributing member of the Teachers' Retirement System may receive credit for active service rendered in the armed forces of the United States, subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of such service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.

(3) A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death and medical insurance fund. Such contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting such service.

SECTION 507. KRS 161.510 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A teacher who was not employed for the 1941-42 school year but who was employed as a teacher in this state prior to the 1941-42 school year shall, when again employed, be considered a new teacher, and membership in the retirement system shall be compulsory for him. He may receive credit for prior service when he produces evidence that he was regularly employed as a teacher prior to July 1, 1941, and has completed at least seven-tenths (.7) of a year of service after July 1, 1941.

SECTION 508. KRS 161.515 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit, service rendered out of state, not to exceed ten (10) such years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase such service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided such service was rendered after January 1, 1984. In the event such service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary

subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for such service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. Such payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. Such credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the state of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use such service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of seven and eighty-four hundredths percent (7.84%) for each year so used. Such payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and thereafter, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

SECTION 509. KRS 161.520 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Upon death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred twenty dollars ($220) per month when the surviving widow or widower's total income from all sources does not exceed six thousand dollars ($6,000) per year or five hundred dollars ($500) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life except that eligibility for this benefit shall cease upon remarriage. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be one hundred eighty dollars ($180) per month in the case of one (1) such child, three hundred ten dollars ($310) per month in the case of two (2) such children, three hundred sixty dollars ($360) per month in the case of three (3) such children, and four hundred dollars ($400) per month in the case of four (4) or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. The mental or physical condition

of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(12). Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) of this section and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19) if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary administrative regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

SECTION 510. KRS 161.522 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Upon the death of a member retired for disability who had a minimum of thirty (30) years of service prior to retiring for disability, except as provided in KRS 161.661(6), the spouse, if named as the beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided under KRS 161.520, an annuity actuarially equivalent to the annuity that would have been paid to the member had retirement for service been effective on the day the member retired for disability. In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance. There shall be a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1984, and to surviving spouses of members who die on or after July 1, 1984.

SECTION 511. KRS 161.525 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as beneficiary of the member's retirement account or in the absence of an eligible spouse a legal dependent of said member, if named as beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or ten (10) years certain payment. A spouse may receive the annuity provided herein at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520, however, a legal dependent, other than a spouse, may not receive such payments if children have qualified for benefits under that section.

(2) A spouse or legal dependent qualifying for an annuity under subsection (1) of this section may defer such payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of thirty (30) years of service, the spouse, if named as the beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

SECTION 512. KRS 161.530 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If a member, whose account has been forfeited under previous provisions of this section, shall return to teaching in a covered position in Kentucky, and reinstates the lost service credit as provided in KRS 161.470 (3), the funds transferred from the member's account shall be restored to such account and shall be credited against the payment required for reinstatement of service credit.

SECTION 513. KRS 161.540 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university faculty members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

SECTION 514. KRS 161.545 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Members may make contributions and receive service credit for substitute, part-time or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in administrative regulations adopted by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked up pursuant to KRS 161.540(2).

(2) Active members who have been granted leaves of absence since July 1941, for reasons of health or to improve their educational qualifications, and did not make contributions to the Teachers' Retirement System may make contributions prior to July 1, 1989, under the following conditions:

(a) Such leave shall be verified by a copy of the board of education minutes which granted the leave of absence;

(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following the year of leave, and by depositing in the state accumulation fund an amount equal to the above sum; and

(c) The member may receive credit for no more than two (2) years under the provisions of this subsection.

(3) A teacher who has been out of the teaching profession, but not on an official leave of absence, for the purpose of obtaining a masters degree may purchase up to one (1) year of service credit in the Teachers'

Retirement System. Credit purchased shall not exceed the time the teacher is enrolled in a masters program. Leave for such purpose shall be verified by a copy of the teacher's college transcript.

SECTION 515. KRS 161.550 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Beginning with July 1, 1988, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all employees of local school districts and the regional educational cooperatives who are members of the retirement system. The state shall, in addition to the above amount, provide an annual contribution of three and one-fourths percent (3.25%) of total salaries of the employees of local school districts who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts and the regional educational cooperatives, shall contribute annually to the retirement system a permanent amount equal to that contributed by its employees who are members of the retirement system plus an additional three and one-fourths percent (3.25%) of the total of salaries of its employees who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts and the regional educational cooperatives, shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.230 to 161.716. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. State contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and such contributions shall be considered deferred compensation to the members.

SECTION 516. KRS 161.555 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each school district, institution or regional educational cooperative employing members of the Teachers' Retirement System in positions established under educational acts adopted by the federal congress and each regional cooperative organization referred to in KRS 161.220(4)(e), except regional educational cooperatives, employing members of the Teachers' Retirement System shall contribute to the Teachers' Retirement System under regulations established by the board of trustees, an amount equal to that contributed by the members so employed.

SECTION 517. KRS 161.560 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the Teachers' Retirement System. The retirement system shall charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days. Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. Employers shall submit an annual report, in compliance with requirements of the retirement system, of teacher contributions and periods employed to the retirement system no later than August 1 following the completion of each fiscal year. The retirement system may impose a penalty on the employer not to exceed one thousand dollars ($1,000) when the employer does not meet the August 1 reporting date. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member. After August 1, 1982, employee contributions shall be picked up by the agency pursuant to KRS 161.540(2).

SECTION 518. KRS 161.565 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Notwithstanding any other provisions of KRS Chapter 161, the contribution of university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the Teachers' Retirement System by the board of regents of the employing university. After August 1, 1982, any contribution by a university faculty member shall be picked up by the employing university pursuant to KRS 161.540(2).

SECTION 519. KRS 161.580 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's contribution and interest accumulations. Such individual accounts shall be identified in the records of the system by name, date of birth, and social security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.

(2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the Teachers' Retirement System.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the executive secretary, and the name, address, and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met;

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

SECTION 520. KRS 161.585 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member; however, the board of trustees may release member account information to the employer or to other state and federal agencies as it deems necessary.

SECTION 521. KRS 161.590 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) At retirement the total service credited to a teacher shall consist of prior and subsequent service rendered by him for which service credit has been allowed.

(2) Kentucky service, presented at the time of retirement, may not be used in calculating benefits under KRS 161.525, 161.620, or 161.661, if such service has been used to increase benefits in another retirement system, not including Old Age and Survivors Insurance Benefits under the Social Security Administration.

(3) No service credit shall be added to a member's account after the effective date of retirement for service.

SECTION 522. KRS 161.595 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employees' Retirement System, the County Employees' Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the Teachers' Retirement System by virtue of such additional service credit. Such payments shall not be picked up, as described in KRS 161.540(2).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

### SECTION 523. KRS 161.600 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number; or

(c) Completion of twenty-seven (27) years of Kentucky service.

(2) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects, he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a) and (b) of this section, provided such service is subsequent to July 1, 1956.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees.

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

### SECTION 524. KRS 161.603 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any teacher retired by reason of service and less than age seventy may waive his annuity and return to regular employment in a Kentucky public elementary or secondary school or state college or university covered by the system. Such teacher shall receive no annuity payments while so employed, but shall continue to be covered by the system's hospital and medical insurance program, and his estate shall continue to be eligible for death benefits as provided in KRS 161.655. He shall be returned to the annuity rolls as of the first of the month next following the month in which the last teaching was performed. A teacher who waives his annuity and teaches for eight (8) months or more during a school term shall be returned to the annuity rolls as of July 1 following the close of such school term. Such person shall not be considered a member of the retirement system, and no contributions shall be made for him. Service subsequent to retirement shall not be used to improve an annuity, except as provided in subsection (2) below.

(2) Any teacher who waives regular annuity benefits and returns to teaching for at least two (2) consecutive regular school years shall be entitled to make contributions on the salaries received for such service and have their retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1)(a) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of such members become eligible for benefits under KRS 161.520, 161.525 and 161.661 because of post-retirement employment.

### SECTION 525. KRS 161.605 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Retired teachers may do part-time or substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation for same without reduction in retirement annuities. The board of trustees by regulation may establish fractional equivalents of a day of teaching service.

### SECTION 526. KRS 161.607 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any member of the Teachers' Retirement System who enters employment covered by the Kentucky Employees' Retirement System, the State Police Retirement System, or the County Employees' Retirement System, prior to July 1, 1976, may retain membership in the Teachers' Retirement System instead of joining the new system.

(2) Retention of membership in the Teachers' Retirement System by any member of the General Assembly

who upon election is a contributing member of the Teachers' Retirement System shall be effected by conforming with KRS 61.680(4)(c). Members of the General Assembly who retain membership shall make retirement contributions based upon their annual compensation as defined under KRS 161.220 or on their creditable compensation as defined under KRS 61.510, whichever is the larger amount. Service as a member of the General Assembly may be used to meet the service requirements of KRS 61.680(2)(a) and 161.510 regardless of the system to which contributions are made by the member.

(3) Any member of the Teachers' Retirement System entering employment as described in subsection (1) of this section must exercise the option within ninety (90) days of the beginning of such employment.

(4) Persons who enter service covered by the Teachers' Retirement System prior to July 1, 1976, and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.

(5) Any person who has elected an option provided in this section may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

SECTION 527. KRS 161.608 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The provisions of KRS 61.680 are hereby recognized and shall be followed in computing benefits of any member of the Teachers' Retirement System who also has an account with the Kentucky Employees Retirement System, County Employees Retirement System or State Police Retirement System.

SECTION 528. KRS 161.620 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by administrative regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than one hundred ninety dollars ($190) effective July 1, 1988, and two hundred dollars ($200) effective July 1, 1989, multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the Teachers' Retirement System shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, 1986 and June, 1987 annuity payment of the member.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1988, the monthly allowance of each member retired on or before July 1, 1987, and each recipient of a retirement option of such retired members shall be increased in the amount of two

percent (2%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1989, the monthly allowance of each member retired on or before July 1, 1988, and each recipient of a retirement option of such retired member shall be increased in the amount of two percent (2%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists or the child marries. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84, 1986-88 and the 1989-90 cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1988-90 biennium for the cost-of-living increases approved under subsection (5) of this section.

SECTION 529. KRS 161.623 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Effective July 1, 1982, and thereafter, A district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active teacher for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account. A maximum of one-half (1/2) year of credit may be added to a member's service credit for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 161.600.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(8) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

SECTION 530. KRS 161.624 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The employees of the Teachers' Retirement System shall endeavor to provide full and complete information to all inquiries presented by members or beneficiaries of members. The members or beneficiaries of the members shall assume full responsibility for obtaining adequate and sufficient information concerning their eligibility for retirement benefits and for selection of the type of benefit available to them.

SECTION 531. KRS 161.630 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under such options as the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The benefit option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

(a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement to provide continuing benefits to such beneficiary and return the retiree to his single lifetime benefit equivalent as determined by the board; or

(b) Following marriage or remarriage, or the death of a spouse or the death of any other designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of his single lifetime benefit at the time of such election, as determined by the board. Such a plan shall become effective the first of the month following an application on a form approved by the board.

SECTION 532. KRS 161.640 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year, shall be no earlier than July 1 next following the end of such fiscal year.

(2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.

SECTION 533. KRS 161.650 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the State Accumulation Fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

SECTION 534. KRS 161.655 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Upon the death of a member retired for service or disability, a death benefit of two thousand and five hundred dollars ($2,500) shall be paid to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Upon the death of an active contributing member, a death benefit of two thousand dollars ($2,000) shall be paid to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Application for the death benefit shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility.

(2) Suit or civil action shall not be required for the collection of the death benefit provided herein, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit.

SECTION 535. KRS 161.661 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided below. Application for disability benefits must be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary, except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement.

(2) No member who has reached the age of sixty (60) years and who is otherwise qualified for retirement may retire by reason of disability, with the disability allowance of sixty percent (60%) of the member's final average salary as set out in subsection (1) of this section. A member who is sixty (60) years of age or older may retire for disability with the benefit calculated on the service retirement formula and the choice of retirement options as provided for service retirement. Provisions of KRS 161.520, 161.525, and subsections (3), (4) and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of such members.

(3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of such eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one

(1) year for each year so retired. Such service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and shall be used in calculating benefits as provided in subsection (5) of this section. The service credit shall be valued at the same level as service earned by active members.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall have such disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty (60) years of age shall be considered as sixty (60).

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of three hundred dollars ($300) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1980, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or such member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(8) In order to qualify for retirement by reason of disability a teacher must suffer from a physical or mental condition presumed to be permanent in duration and of such a nature as to render him incapable of being gainfully employed as a teacher. Such incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

(9) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

(10) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(11) No person who receives a disability allowance may serve as a teacher either within or without the state of Kentucky. So doing shall constitute a misdemeanor; and shall result in loss of such allowance from the first date of such service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of twelve thousand dollars ($12,000) or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or twelve thousand dollars ($12,000), whichever is the greater amount. In no case shall the benefit be reduced to less than seventy-five dollars ($75) per month, if the member has five (5) or more years of contributing service in the Teachers' Retirement System.

(12) The board of trustees shall designate medical review committees, each consisting of three licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with such applications. The disposition of each case shall be recommended by a medical review committee in writing to the board of trustees. Members of a medical review committee shall follow such rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure such additional medical service and information as it deems necessary. The board of trustees shall promulgate regulations that specify member appeal procedures.

(13) A disability may be presumed to be permanent if the condition creating such disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(14) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months

of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

SECTION 536. KRS 161.663 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any active contributing member with less than five (5) years of Kentucky service may apply and be approved for disability retirement under KRS 161.661 if the member is found to be mentally or physically incapacitated as a result of an injury related directly to their covered employment. All conditions and restrictions specified under KRS 161.661 shall be applicable, except that the initial annual disability allowance shall be equal to fifty percent (50%) of the member's current annual contract salary and the member's last annual contract salary shall be used in lieu of the final average salary in the recalculation of the member's benefit at the expiration of the eligibility period.

SECTION 537. KRS 161.675 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to members retired for service or disability. Coverage may be extended to the spouses and minor children of said retired members, provided the member began participating in the Teachers' Retirement System prior to July 1, 1978. Coverage may also be extended to spouses and to minor children of members in active contributing status who are deceased prior to retirement if the surviving spouse is eligible to receive the member's retirement benefit as provided in KRS 161.525 and elects to do so. The board of trustees may offer, on a cost basis, coverage of spouses not eligible for regular coverage.

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2), to qualify for such coverage.

(3) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the insurance program. Such charges may be flat standard amounts or based upon the amount of the annuity allowance payments or a combination of these provisions. The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund and from the premium charges received from the annuitants and the spouses. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis or a combination of these provisions.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

SECTION 538. KRS 161.680 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If any change or error in a record results in any employee or beneficiary receiving from the retirement system more or less than he was entitled to receive, the board of trustees shall, when the error is discovered, correct the error, and as far as practicable adjust the payments so that the actuarial equivalent of the benefit to which he was entitled shall be paid.

SECTION 539. KRS 161.690 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No person shall knowingly make any false statement, nor shall any person falsify or permit to be falsified any record of the retirement system in an attempt to defraud the system.

SECTION 540. KRS 161.700 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment or other process, and are unassignable except as provided in this chapter.

(2) Retirement allowance, disability allowance, accumulated contributions or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

SECTION 541. KRS 161.705 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any member of the Teachers' Retirement System, or the employer of member, or both, may make voluntary contributions of four percent (4%) or more of the member's annual compensation to the retirement system for the benefit of the member. Such contributions shall not be picked up, as described in KRS 161.540(2). Such contributions shall be invested as provided in KRS 161.430. Separate member accounts shall be maintained for voluntary contributions under rules and regulations enacted by the board of trustees.

SECTION 542. KRS 161.710 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The local retirement systems merged with the state retirement system under the provisions of Acts 1938 (1st Ex. Sess.), Ch. 1, 49, shall be discontinued. The payment of all benefits to members on the retired roll at the time of discontinuance shall become the obligation of the school district in which the local system was operated prior to its discontinuance. The method of determining and paying refundable deposits due members of the local system shall be as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, 49.

(2) Payments to annuitants in cities of the first class shall not exceed the amount being received by them at the time the local retirement system is discontinued. The sum that remains after the death of all annuitants shall be used by the local board of education for general school purposes.

(3) The local board of education shall continue to invest the funds transferred to it for the benefit of the existing annuitants as long as such annuitants live. Such investment shall be governed by Acts 1934, Ch. 65, Art. IX, except that the local board of education is substituted for the board of trustees of the local retirement system. The local board of education shall keep all funds transferred to it by the local retirement system and all income from the investment of such funds in a separate fund to be known as the annuity fund. The local board of education may pay from the fund any reasonable expenses necessary for the fund's administration and general management. The local board of education shall safeguard the fund by requiring such additional surety bond of the treasurer as it deems necessary, by providing for an annual audit by a reputable auditing firm, by spreading on the minutes of the board of education at least annually a report of investments, assets and liabilities, and the names, addresses and annuities of annuitants, and by making such an appropriation to the fund from local school revenues as will guarantee the full and complete discharge of all obligations to annuitants.

SECTION 543. KRS 161.712 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any person who was employed as a certified teacher in the public schools or state universities of the Commonwealth of Kentucky, now covered by the Teachers' Retirement System, as a regular, full-time teacher for a period of twenty (20) or more years prior to July 1, 1940, and who is not otherwise qualified to receive a pension or annuity from the Teachers' Retirement System, shall be entitled to a payment of seventy-five dollars ($75) per month.

(2) Persons qualifying for this payment shall not be eligible for any other benefit provided for in this chapter.

(3) The terms of this section shall become effective on July 1, 1980, and payment to qualified persons shall begin at such time following that date as applications are received on forms adopted by the board of trustees of the Teachers' Retirement System. No payments shall be made retroactive to the receipt of such application.

(4) Persons attempting to qualify for payment under the terms of this section shall furnish such proof of age, employment and other qualifications as the board of trustees may require. The board of trustees shall be empowered to determine the eligibility of all applicants.

SECTION 544. KRS 161.714 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

It is hereby declared that in consideration of the contributions by members and in further consideration of benefits received by the state from the member's employment, KRS 161.220 through 161.710 shall constitute an inviolable contract of the Commonwealth, and the benefits provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal.

SECTION 545. KRS 161.716 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In the event that federal laws are in conflict with the Kentucky Revised Statutes pertaining to the Teachers' Retirement System, federal laws shall take precedence. When necessary to comply with federal laws, the board of trustees may defer or stop payments of allowances until the conflict is resolved. The board of trustees shall adopt such regulations as are necessary to remove any conflicts with federal laws and to protect the interests of the members, survivors of members and the system.

SECTION 546. KRS 161.810 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If an entire school district or that part of a school district which comprises the territory in which a school or schools are situated is transferred to any other district, or if the schools in an independent or county school district are consolidated or centralized, the teachers in such consolidated or centralized schools employed on continuing contracts immediately prior to such transfer, consolidation, or centralization shall, subject to the limitations imposed by KRS 161.800, have continuing service status in the newly centralized or consolidated school, or in the district to which the territory is transferred.

SECTION 547. KRS 162.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The title to all property owned by a school district is vested in the Commonwealth for the benefit of the district board of education. In the acquisition of land for school purposes, whether by purchase or condemnation, or otherwise, the title obtained shall be in fee simple, except that title to land received from the federal government or any agency thereof can be received in other than fee simple with the approval of the Attorney General of the Commonwealth. Any reversionary interest in any land held by boards of education on June 14, 1934 shall not deprive such boards of the ownership of the buildings or other improvements thereon.

SECTION 548. KRS 162.020 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The title to school property in territory transferred from one (1) school district to another shall not be affected by the transfer. In case of the sale of such property the board of education to which the property belongs may allow a credit on the sale price of the property in proportion to the ratio which the school population of the transferred territory is to the total school population of the district from which the territory was transferred before the transfer was made.

(2) A board of education owning and operating a school plant in another district on June 14, 1934, may continue to own and operate the plant, and a county board of education may establish and maintain a school in an independent school district. Any independent school district may purchase school sites and establish and maintain schools outside the limits of the independent district, but independent districts containing cities of the first or second class shall not purchase school sites or establish or maintain schools outside the county in which the independent district is located.

SECTION 549. KRS 162.040 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

So much property in each school district as escheats to the state, and is not required by the provisions of KRS Chapter 393 to be disposed of in some other manner, shall vest in the state for the use and benefit of the public schools in the district. The board of education of the district may, in the name of the state and for the use and benefit of the schools of the district, by its chairman or other officer designated by it, enter upon and take possession of the property, or sue for and recover the property by action at law or in equity. The board may sell and convey any of the property by warranty deed or otherwise.

SECTION 550. KRS 162.050 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The board of education of any school district may permit the use of the schoolhouse, while school is not in session, by any lawful public assembly of educational, religious, agricultural, political, civic or social bodies under rules and regulations which the board deems proper.

SECTION 551. KRS 162.075 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The provisions of KRS Chapter 45A and KRS 162.070 shall not apply to purchases made by the boards of education within the Commonwealth of Kentucky from the United States of America, or any agency thereof.

SECTION 552. KRS 162.080 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Whenever a board of education deems it necessary for the proper accommodation of the schools of

its district to enlarge sites for school buildings, to purchase new sites, which in the case of independent districts may be not more than two (2) miles without the boundary lines of the district, to improve, remodel or restore school buildings, to erect or equip new school buildings, or for any or all of these purposes, and the annual funds raised from other sources are not sufficient to accomplish the purpose, the board shall make a careful estimate of the amount of money required for the purpose and shall determine the amount of money for which bonds shall be issued and the purpose to which the proceeds shall be applied. Upon request of the board of education of any district, the county board of elections shall submit to the qualified voters of the district, the question as to whether bonds shall be issued for the purpose. The question shall be so framed that the voter may by his vote answer "for" or "against."

(2) The request shall be accompanied by an ordinance or resolution which shall fix the time the bonds shall run and, if a serial issue, the amount to mature at each time. It shall limit the rate of interest to be permitted on the bonds, which shall not exceed the amount permitted by law, and the total amount of bonds to be issued, and shall provide for the levy of a tax to pay the interest and to create a sinking fund to retire them at their maturity.

(3) The election shall be held not less than fifteen (15) nor more than thirty (30) days from the time the request of the board of education is filed with the county board of elections, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

SECTION 553. KRS 162.090 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If two-thirds (2/3) of those voting on the question vote in favor of the proposition, the bonds shall be issued. The bonds shall be designated "school improvement bonds." They shall be placed under the control of the board of education, and the board shall determine when, at what price and how the bonds shall be sold, the date, number of bonds, denomination, whether coupon or registered, the rate of interest, the frequency and place of payment of principal and interest, and other details as desired, embodied in the bonds or in the request providing for their issue. The board shall at once adopt a resolution in conformity therewith. The bonds shall be signed by the chairman and secretary of the board of education. As the bonds are sold, their proceeds shall be placed to the credit of the board of education in a depository designated by the board of education, and shall be kept in a separate account. The depository shall be required to execute proper bond covering the funds.

(2) The board of education of the district shall, in addition to the levy made for the maintenance of schools, levy annually a tax sufficient to raise a sum for the payment of the interest and to create a sinking fund for the payment of the bonds at maturity. The bonds shall be a charge upon the school district.

SECTION 554. KRS 162.100 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The bond issue of any district shall not exceed the limits provided in the Constitution, such limitation to be estimated upon the assessment next before the last assessment previous to the incurring of the indebtedness.

(2) All of the bonds voted by the various types of school districts and subdistricts prior to June 14, 1934, shall be retired and the interest paid thereon in accordance with the laws under which they were voted, and nothing in KRS 162.080 to 162.100 shall in any way impair any of such bond obligations or the interest thereon.

SECTION 555. KRS 162.140 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Immediately upon the approval of the plans and specifications as provided in KRS 162.130, the board of education shall offer to lease the building for a term of one (1) year from the time the building is completed and ready for occupancy. The lease by its terms shall give the lessee the right and option to extend the term of the lease from year to year, for periods of one (1) year, until the original term of the lease has been extended for a total number of years, acceptable to the city, not exceeding thirty (30) years, at a rental which, if paid for the original term and for each of the full number of years for which the term is extended, will amortize the total cost of the erection of the building and appurtenances, provide an adequate maintenance fund and in addition thereto a sum sufficient to pay the cost of insuring the building against loss or damage by fire and windstorm or other calamity in such sum as may be agreed by the parties thereto.

SECTION 556. KRS 162.150 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Any city may establish and erect school buildings and necessary appurtenances within the corporate limits under the provision of KRS 162.160 to 162.280, for the purpose of supplying the board of education of the independent district embracing the city with adequate buildings necessary to carry out its duties and powers.

SECTION 557. KRS 162.170 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

For the purpose of defraying the cost of constructing or acquiring any school buildings and appurtenances thereto for common school purposes under the provisions of KRS 162.150, any city may borrow money and issue negotiable revenue bonds. No such bonds for common school purposes shall be issued until the conditions of KRS 162.160 have been complied with, and until authorized by an ordinance specifying the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest the bonds are to bear, which rate, as applicable to revenue bonds issued to finance buildings and appurtenant facilities for common school purposes, shall be established by regulation of the State Board for Elementary and Secondary Education. The ordinance shall further provide that the buildings and appurtenant facilities are to be constructed or acquired under the provisions of KRS 162.150 to 162.280.

SECTION 558. KRS 162.180 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All bonds issued under the provisions of KRS 162.170 for common school purposes may bear interest at a rate not exceeding the maximum rate per annum which has been established by regulation of the State Board for Elementary and Secondary Education, payable semiannually, and shall be executed in such manner and be payable at such times, not exceeding thirty (30) years from the date thereof, and at such place as the governing body of the city determines. The bonds shall be sold in such manner and upon such terms as the governing body of the city deems for the best interest of the city.

SECTION 559. KRS 162.185 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Nothing contained in KRS 162.170 or 162.180 is intended to or shall be construed to make interest rates applicable to revenue bonds issued by the governing bodies of state institutions of higher learning under KRS 162.340 to 162.380, inclusive, subject to regulation, establishment, limitation or approval by the State Board for Elementary and Secondary Education.

SECTION 560. KRS 162.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All bonds issued under the provisions of KRS 162.170 shall have all of the qualities of negotiable instruments, and shall not be subject to taxation. If any of the officers whose signatures appear on the bonds or coupons cease to be such officers before delivery of the bonds, the signatures shall nevertheless be valid for all purposes the same as if the officers had remained in office until delivery. The bonds shall be payable solely from the revenue derived from the school building as provided in KRS 162.230, and shall not constitute an indebtedness of the city within the meaning of the constitutional provisions or limitations. It shall be plainly stated on the face of each bond that it was issued under the provisions of KRS 162.150 to 162.280 and that it does not constitute an indebtedness of the city.

SECTION 561. KRS 162.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All money received from any bonds issued pursuant to KRS 162.170 shall be used solely for the establishment or erection of the school building and necessary appurtenances, except that the money may be used also to advance the payment of the interest on bonds during the first three (3) years following the date of the bonds. There shall be a statutory mortgage lien upon the school building and appurtenances in favor of the holders of the bonds and coupons.

SECTION 562. KRS 162.210 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The school building and appurtenances shall remain subject to the statutory lien provided by KRS 162.200 until the payment in full of the principal and interest of the bonds. Any holder of the bonds or of any of the coupons may, either at law or in equity, protect and enforce the lien, and may by action enforce and compel performance of all duties required by KRS 162.150 to 162.280, including the making and collecting of sufficient rents, the segregation of the income and revenue, and the application thereof.

SECTION 563. KRS 162.220 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If there is any default in the payment of the principal or interest on any of the bonds, any court having jurisdiction of the action may appoint a receiver to administer the school building on behalf of the city, with power to charge and collect rentals sufficient to provide for the payment of any bonds or obligations outstanding against the school building and for the payment of the operating expenses, and to apply the income and revenues in conformity with KRS 162.150 to 162.280, and the ordinance referred to in KRS 162.170 and 162.230.

SECTION 564. KRS 162.230 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

At or before the issuance of the bonds, the governing body of the city shall, by ordinance, set aside and pledge the income of the building into a special fund to be used and applied in payment of the cost and maintenance of the building. The ordinance shall definitely fix the amount of revenue necessary to be set aside and applied for the payment of the principal and interest of the bonds. The balance of the income shall be set aside for the reasonable and proper maintenance of the building, including a sufficient sum to pay the cost of insurance. The city governing body may provide by ordinance any provision and stipulation it deems necessary for the administration of the income for the security of the bondholders.

SECTION 565. KRS 162.240 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The sinking fund shall be deposited in a depository selected by the governing body of the city. The deposit, where practicable, shall be continuously secured by a pledge to the city of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the account, or in some other manner acceptable to the purchasers or holders of the bonds. The securities shall be deposited with the city or held by a trustee or agent satisfactory to the governing body of the city. The sinking fund may be invested in direct obligations of the United States.

SECTION 566. KRS 162.250 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building during the remainder of the calendar or fiscal year, as may be provided by the ordinance required by KRS 162.230, and the cost of maintaining and operating the building for the succeeding like calendar or fiscal year, the excess over such amount shall be transferred to the sinking fund.

SECTION 567. KRS 162.270 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If the governing body of the city finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the same procedure.

SECTION 568. KRS 162.280 REPEALED AND REENACTED TO READ AS FOLLOWS:

When the board of education of the school district has paid rent, as provided in KRS 162.160, sufficient to amortize the cost of erection of the building and appurtenances and to maintain the building and pay the cost of insurance, the city shall thereupon convey the premises to the board, and shall transfer any balance remaining in the funds provided for in KRS 162.230 to 162.250 to the account of the board of education.

SECTION 569. KRS 162.290 IS REPEALED AND REENACTED TO READ AS FOLLOWS:.

KRS 162.120 to 162.140 and KRS 162.150 to 162.280 are additional and alternate methods for the acquisition of school buildings by boards of education of independent districts embracing cities of any class, and do not include, alter, amend or repeal any other statute. No proceeding shall be required for the acquisition of any school building or the issuance of bonds under KRS 162.150 to 162.280 except such as are prescribed by those sections.

SECTION 570. KRS 162.300 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

County boards of education and boards of education of independent districts not embracing a city of any class may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(1) "City" means "county" or "urban-county," as the case may be;

(2) "City clerk" means "county clerk" or the appropriate record keeping officer in an urban-county government;

(3) "Governing body of the city" means "fiscal court" or the governing body of an urban-county government, as the case may be;

(4) "Mayor" means "county judge/executive" or "chief executive officer of the urban-county government," as the case may be;

(5) "Ordinance" means either "ordinance" or "resolution."

SECTION 571. KRS 162.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

For the purpose of providing buildings to be used in connection with any state educational institution, the governing body of the institution may convey to any person complying with KRS 162.320 and 162.330 a fee simple title, with covenant of general warranty of title, to real estate held by or for the institution, as a site for the buildings.

SECTION 572. KRS 162.320 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Every person to whom a site for a building is conveyed pursuant to KRS 162.310 shall immediately enter into a written contract with some person approved by the governing body of the state educational institution, for the immediate erection on the site of a building with the necessary appurtenances, according to plans and specifications approved by the governing body of the state educational institution. The contract shall provide the time when the building shall be completed. The contractor shall enter into bond with the Commonwealth for the benefit of the state educational institution in the penal sum of not less than twenty-five percent (25%) of the contract price for the completion of the work in the manner and within the time set out in the contract.

SECTION 573. KRS 162.330 REPEALED AND REENACTED TO READ AS FOLLOWS:

Immediately upon the execution of the contract provided for by KRS 162.320, the person to whom the site is conveyed shall execute, acknowledge and deliver to the governing body of the state educational institution, a lease of the site and the building to be erected thereon, for a term of one (1) year from the time the building is completed and ready for occupancy, with an option in the lessee to extend the term of the lease for a term of one (1) year from the expiration of the original term of the lease and for one (1) year from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years to be agreed upon by the parties at a rental which, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building and appurtenances. The rent shall be paid at such times as the parties to the lease agree upon. The lease shall provide that the lessee may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of the erection of the building and appurtenances not amortized by the payments of rent previously made by the lessee. The lease shall provide that in the event of the exercise of the option to purchase the leased premises or in the event the lease has been extended for the full number of years which it is agreed the same may be extended, and all rents and payments provided for in the lease have been made, the lessor shall convey the premises to the lessee in fee simple with covenant of general warranty of title. The lease may provide that the lessee shall, as additional rent for the leased premises, pay all taxes assessed against the leased premises, and the cost of insuring the building erected thereon against loss or damage by fire and windstorm in such sum as may be agreed by the parties thereto.

SECTION 574. KRS 162.340 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The governing body of any state educational institution may, under the provisions of KRS 162.350 to 162.380, erect buildings and appurtenances to be used in connection with the institution for educational purposes.

SECTION 575. KRS 162.350 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The governing body of a state educational institution erecting a building or buildings pursuant to KRS 162.340 is subject to the provisions of KRS 162.170 to 162.240, KRS 162.260, 162.270 and 162.290, except that part of KRS 162.190 that provides that the bonds shall be payable solely from the revenue derived from the particular building or buildings thus erected and also except that part of KRS 162.170 that requires compliance with KRS 162.160, and that part of KRS 162.170 and 162.180 which establishes a maximum interest rate of six percent (6%) per annum. The maximum rate for the purposes of this section shall be six and one-half percent (6 1/2%) per annum. When so applied these sections shall be so read that:

(1) "City" means "state educational institution";

(2) "Ordinance" means "resolution";

(3) "Governing body of the city" means "governing body of the institution";

(4) "School buildings" means the type of buildings contemplated by KRS 162.340;

(5) "Thirty (30) years" in KRS 162.180 means "forty (40) years";

(6) "KRS 162.230" in KRS 162.190 and 162.220, means "KRS 162.230, 162.360 and 162.370";

(7) "KRS 162.150 to KRS 162.280" means "KRS 162.350 to 162.380."

SECTION 576. KRS 162.360 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The governing body of a state educational institution erecting a building or buildings and appurtenances under the provisions of KRS 162.340 shall, by resolution, provide that the bonds shall be payable, solely from the revenues of such building or buildings, provided, said governing body may in its discretion, by said resolution, also provide that the bonds shall be payable from the revenues of any other building or buildings theretofore or as may be thereafter erected and used, in connection with the institution for educational purposes provided, further, any such provision for the payment of the bonds from the revenues of such other building or buildings theretofore erected shall be subject to and in all respects in full conformity and compliance with the rights of the holders of any bonds or obligations payable from the revenues of such other building or buildings theretofore issued by the governing body then outstanding. The resolution shall fix the initial minimum rents, tolls, fees, and other charges to be imposed in connection with the services furnished by the building or buildings to be erected and may also provide that the governing body of the institution shall monthly as the service accrues pay from the current funds of the institution or from student fees, or both, into the special fund provided by KRS 162.230 as that section is made applicable by KRS 162.350 a minimum amount representing the reasonable cost and value of any service rendered to the educational institution by such building or buildings in furnishing any educational facilities in the operation of the educational institution. The resolution shall fix the extent of the pledge of revenues from such other building or buildings toward the payment of the bonds and interest thereon and may specify the terms and conditions upon which additional bonds may be thereafter issued and sold ranking on a parity with and payable from the same source as the bonds authorized by such resolution, and such additional parity bonds may thereafter be so issued and sold to pay all or any part of the cost of building or buildings and appurtenances. The resolution shall definitely fix the minimum amount of revenues necessary to be set apart on or before stated intervals and applied to the payment of the principal and interest on the bonds and the balance of the income and revenues shall be set aside as a proper operation and maintenance fund, including a sufficient sum to pay the cost of insuring the building or buildings against loss or damage by fire and windstorm or other calamity as may have been stipulated in the resolution or resolutions authorizing the bonds. The charges for the services from the building or buildings, together with the available revenues of any other building or buildings pledged to the payment of said bonds and interest thereon, shall be sufficient at all times to provide for the payment of such interest and to create a sinking fund to accomplish retirement of such bonds at or before maturity, and to pay the current operation and maintenance expenses of the building or buildings to the extent such expenses are not otherwise provided. The charges shall be revised from time to time so as to produce these amounts.

SECTION 577. KRS 162.370 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building or buildings during the remaining portion of the calendar or fiscal year, as may be provided by the resolution adopted under KRS 162.360 and the cost of maintaining and operating the building or buildings the succeeding like calendar or fiscal year, the excess over such amount may be transferred at any time by the governing body to the sinking fund or may be used for any improvements, extensions or additions to the building or buildings.

SECTION 578. KRS 162.380 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The bonds issued under authority of KRS 162.350 shall be obligations only of the governing body of the institution, payable as to both principal and interest from the revenues as pledged for that purpose. In no event shall they be considered a debt for which the credit of the state is pledged. Any resolution adopted under the provisions of KRS 162.350 or 162.360 shall constitute a contract between the governing body of the institution and the holder of any bond or coupon and shall be binding in all respects upon the governing body of the institution and its successors.

SECTION 579. KRS 162.385 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Any board of education may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290 utilizing a nonprofit finance corporation established pursuant to the provisions of KRS 273.161 to 273.390, inclusive, and KRS 58.180 as an issuing agency for the bonds instead of a city or county. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(a) "City" means a finance corporation acting as an agency and instrumentality of the board pursuant to KRS 58.180;

(b) "City clerk" means the secretary of the finance corporation;

(c) "Governing body of the city" means the board of directors of the finance corporation or other governing body thereof;

(d) "Mayor" means president or chief executive officer of the finance corporation; and

(e) "Ordinance" means an ordinance, resolution or trust indenture or a similar document.

(2) In order to promote uniformity in the financing of school facilities each finance corporation shall include the identity of the school district for which it acts in its title and shall be designated as "______________ school district finance corporation."

(3) Bonds issued by a finance corporation on behalf of a board of education shall constitute "bonds" within the meaning of KRS 157.615(3) and the School Facilities Construction Commission shall be authorized to assist qualified boards in meeting rental payments due under a lease from the finance corporation to the board which shall constitute a "lease" within the meaning of KRS 157.615(6).

SECTION 580. KRS 162.450 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The board of education of a city of the second class, or of a county containing a city of the second class, may raise the maximum limit of the insurance fund from time to time as it deems best. Until the amount in the fund equals the maximum limit, the board of education shall each year, from the revenues under its control, set apart to the fund a sum equal to from one-twentieth (1/20) to one-tenth (1/10) of the maximum limit of the sum. When any portion of the fund is used, payments to restore the fund shall at once be begun and be continued until the restoration is complete. When the fund is, for any reason, below the maximum limit, the interest derived from the investment thereof shall be accumulated and added to the fund; otherwise the interest may be transferred to the general funds of the board.

SECTION 581. KRS 162.460 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The insurance fund shall be kept on deposit with the treasurer of the board of education, unless by order of the board it is invested in United States, state, county, or city bonds that are not payable from assessments, and are registered, if practicable. If the bonds are coupon bonds they shall be kept deposited in a safe deposit vault and be opened only by the business manager or secretary of the board in the presence of a member of the board authorized to represent it. Every vote upon the use or investment of any portion of the fund shall be by call of the yeas and nays and the record shall show how each member voted.

SECTION 582. KRS 162.470 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The board of education shall cause every building to be carefully examined annually by a competent insurance inspector. The inspector shall make a written report of the result of his examination with recommendations.

SECTION 583. KRS 162.500 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

No member of the board of education shall vote for, and no officer of the board shall certify to or draw a check for, an appropriation in violation of KRS 162.440 to 162.490.

SECTION 584. KRS 162.540 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Upon receiving a request in writing from a board of education, the authority may, in its discretion, assist such board of education in financing any project by acting in the capacity and manner authorized to be performed by cities under KRS 162.120 to 162.290, and by counties under KRS 162.300. When applied to the authority, KRS 162.120 to 162.300 shall be so read that the following terms and passages have the following respective meanings or interpretations:

(1) "City" or "county" means "authority";

(2) "City clerk" or "county clerk" means "secretary or assistant secretary of the authority";

(3) "Governing body of the city" or "fiscal court" means "authority";

(4) "Mayor" or "county judge/executive" means "chairman or vice-chairman of the authority";

(5) "Ordinance" in the case of a city, or "resolution" in the case of a county, means a resolution of the authority;

(6) "Building and appurtenances" means "project" as defined in subsection (5) of KRS 162.520;

(7) The last sentence of KRS 162.190 shall read, "It shall be plainly stated on the face of each bond that it was or is issued under the provisions of KRS 162.520 to 162.620 (omitting reference to KRS 162.150 to 162.280 as such), and that it does not constitute an indebtedness of the authority or of the Commonwealth";

(8) KRS 162.200 is modified to permit use of money received from bonds for the additional purpose of paying reasonable expenses incurred in the authorization, advertising, preparation, sale and delivery of bonds, and may include a fee contracted to be paid to a fiscal agent for financial advice and services if the contract or agreement therefor shall have been approved by the board of education and by the authority;

(9) As used in KRS 162.140, "lease" shall have the meaning defined in subsection (6) of KRS 162.520, and the same shall be recorded or filed for recording in the office of the county clerk of the county in which the project is situated, as evidenced by a written receipt or acknowledgment of filing issued by such clerk, or by a copy of the lease attested or certified by such clerk as being of record in his office. It shall be the duty of the secretary of the authority to obtain such evidence before delivery of the bonds to a purchaser thereof; but failure to obtain the same shall not affect the validity of the bonds in the hands of any purchaser or holder;

(10) KRS 162.240 shall not apply; and the following provisions shall govern in lieu thereof:

"One (1) or more depositories and paying agents may be selected and designated by the board of education, subject to the approval of the authority, which approval shall not unreasonably be withheld; but each depository and paying agent shall be a financial institution, within or without the Commonwealth, which is a member of federal deposit insurance corporation. All deposits of sinking funds and of bond proceeds shall continuously be secured by a pledge to the authority of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the fund or account, such securities to be deposited with the authority or held by a trustee or agent designated by the authority; provided, however, in lieu of requiring such security the authority may in its discretion invest, or cause to be invested and reinvested, any moneys in direct obligations of the United States until such time as cash funds may be needed, and the authority may prescribe for the custody and safekeeping of such securities. When cash funds are needed, the authority shall direct the conversion into cash of such securities, or a sufficient portion thereof, and may require that the same be secured until disbursement, as herein provided. All income from such securities shall accrue to the board of education, but may be retained by the authority and credited upon any rental obligation of the board of education under the lease, or applied to supplement bond proceeds if the same should for any reason turn out to be insufficient to defray the costs and expenses of the project."

SECTION 585. KRS 162.550 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Moneys received by the authority as rentals under any lease, and from the sale of bonds, are declared not to be funds of the Commonwealth but shall be corporate funds of the authority to be held, administered, invested and disbursed as trust funds under the terms, provisions, pledges, covenants, and agreements set forth in its leases and bond resolutions and bonds.

SECTION 586. KRS 162.580 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In connection with each bond issue of the authority, it shall be the duty of the authority:

(1) To require the board of education to insure the project to its full insurable value, or to the amount of the bonds outstanding from time to time, whichever is the less, against the hazards covered by the standard fire insurance policy with standard indorsement of "extended coverage"; and to require that a copy of each policy be delivered to the authority for inspection and for its records;

(2) To require periodic accounting from all depositories of funds, the same to be submitted on forms prepared and supplied by the authority;

(3) To furnish to the auditing staff of the department a summary identification and description of each issue, and to request that the financial records of the board of education relating thereto be audited as a part of the annual audit of the board of education, and that a separate statement or report thereof be filed with the authority;

(4) To send to each board of education, at least thirty (30) days before the due date of any rental payment, a notice of the amount of rental to become due, and the date thereof, and to require acknowledgment thereof;

(5) In the event of failure to receive from the board of education satisfactory evidence that sufficient funds have been transmitted to the authority, or will be so transmitted, for paying bond principal and/or interest when due, as provided in the lease, to notify and request that the department withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated to it, and to request that the department transfer the required amount thereof to the authority for the account of the board of education.

SECTION 587. KRS 162.590 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

It shall be the duty of the department, upon written request of the authority:

(1) To cause its auditing staff to audit the financial records of a board of education relating to any identified and described bond issue of the authority, as an incident to the department's next ensuing annual audit of such board of education, and each subsequent annual audit thereof; and to provide to the authority a statement or report thereof;

(2) Upon receiving a notification and request from the authority as described in KRS 162.580, to ascertain whether the lease of the board of education has been renewed and is in force in accordance with its terms; and if the same is ascertained to be in force, to withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated by the department for the board of education, and to comply with the terms of the notification and request of the authority, for the account of said board of education.

SECTION 588. KRS 162.600 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Bonds of the authority shall be issued in the name of the authority, shall be designated "school building revenue bonds," or, if appropriate, "school building revenue refunding bonds," and shall additionally be identified by the name of the board of education executing the lease. If the authority shall issue more than one (1) series of bonds for the same lessee from time to time, each series, including the first or subsequent to the first, shall additionally be identified distinctly by alphabetical or chronological designation, by date of the bonds, or otherwise as the authority may determine.

(2) For the purposes of determining any limit prescribed by any law for investment of any public funds, or funds of banks, trust companies, insurance companies, building and loan associations, credit unions, pension and retirement funds, and fiduciaries, in obligations of a single obligor, bonds issued by the authority pursuant to KRS 162.520 to 162.620 shall not be deemed to be bonds or obligations of the same obligor except to the aggregate of all series of bonds involving leases of a single board of education.

(3) Bonds issued by the authority under the provisions of KRS 162.520 to 162.620 are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

SECTION 589. KRS 162.620 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Bonds of the authority shall be sold only upon the basis of sealed bids or proposals, publicly solicited, received, opened and acted upon. The "publication area," as that term is used in KRS Chapter 424, shall not be deemed to be the area within which the office of the authority is situated, but shall be deemed to be the "publication area" of the board of education executing the lease. Each sale shall be publicly advertised by means of a notice conforming to the provisions of KRS 424.140 (3), and the same shall be published at least one (1) time, at least seven (7) days in advance of the date set forth for opening bids, in a daily newspaper having bona fide general circulation throughout the Commonwealth. If such publication is made, it shall be sufficient for publication in the "publication area" to be made only one (1) time, at least seven (7) days in advance of the date set forth for the opening of bids, notwithstanding provisions for publication more often as provided in KRS Chapter 424. If a copy of the sale notice be delivered or transmitted in good faith to the qualified newspaper of the "publication area" in time for publication in an issue thereof published seven (7) days or more in advance of the date set forth for the opening of bids, and with direction for publication therein, any failure of such newspaper to make publication as directed shall not invalidate the sale of the bonds by the authority on the designated date, nor require postponement or cancellation thereof.

SECTION 590. KRS 163.020 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved February 23, 1917, and all subsequent acts relating to vocational education as defined herein, the purpose of which is to provide training, develop skills, abilities, understandings, attitudes, work habits, and appreciation, and to impart knowledge and information needed by workers to enter into and make progress in their chosen vocations. These training opportunities should be provided for the young people who are enrolled in the regular day schools and, also, for out-of-school youth and adults, both employed and unemployed, who are in need of and can profit by vocational training.

SECTION 591. KRS 163.038 IS REPEALED AND REENACTED TO READ AS FOLLOWS::

(1) There is hereby created a public corporation to be known as Computer Services for the Blind Corporation. This corporation shall have the power to sue and be sued, to contract and to be contracted with.

(2) The Computer Services for the Blind Corporation shall have a governing board of directors consisting of nine (9) members. These members shall be selected as follows: The executive director of the Department for the Blind, within the Education and Humanities Cabinet and one (1) member selected by him; the superintendent of the Kentucky School for the Blind and one (1) member selected by him; the director of Kentucky Industries for the Blind and the director of the Rehabilitation Center for the Blind; three (3) additional members shall be appointed by the Governor from a list of nine (9) nominees made by the other six (6) board members. These nominees must either represent higher education or have expertise in the field of computer services. The three (3) members selected by the superintendent and the directors must be legally blind.

(3) On July 1, 1972, the board of directors is authorized to organize as follows: The three (3) members

of the board selected by the superintendent and the directors shall have terms of two (2) years, three (3) years and four (4) years each, to be determined by lot. After the Governor has appointed the three (3) other members to the board, their terms shall likewise be for two (2) years, three (3) years and four (4) years as determined by lot. After the expiration of the original terms, all subsequent terms shall be for four (4) years. After the initial appointment by the Governor from the list of nine (9) nominees, all subsequent appointments for one (1) membership shall be made from a list of three (3) nominees.

(a) It shall be necessary for five (5) members of the board to be present to constitute a quorum.

(b) The board shall provide for the keeping of minutes of all board meetings and shall otherwise keep records of all actions taken by the board or by any other of the board's employees or agents.

(c) Each board member shall receive his necessary traveling and other expenses in attending board meetings or otherwise conducting the board's business.

(d) The board shall meet at least two (2) times per year, but the chairman or any three (3) members of the board may call a meeting in writing with at least five (5) days' notice.

(4) The purpose of the Computer Services for the Blind Corporation shall be to make available computer services to the blind of Kentucky.

(5) The board of directors may employ such persons as may be necessary to carry out the purposes of this section.

(6) The board of directors shall have the power to purchase, lease, rent or sell any personal or real property as may be necessary in carrying out the functions of this section. The board shall also have the power to accept gifts and donations.

(7) The board of directors may provide that recipients of services provided by the corporation must pay a portion of all of the costs of providing ***the*** [~~such~~] services. The board may adopt regulations establishing internal procedures without holding a public hearing.

(8) The services provided by Computer Services for the Blind Corporation shall be available to any blind person whether directly paid for by him or by any corporation, business, governmental agency or charitable organization.

(9) For the purpose of this section, blind means a visual acuity of twenty/two hundred (20/200) in the better eye with correction or a restriction in the visual field so that vision does not subtend an angle greater than twenty (20) in the better eye with correction.

SECTION 592. KRS 163.095 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

All bequests or donations made for a specified use with regard to the state vocational education program, vocational education facilities, vocational education personnel, or present or prospective vocational education pupils shall be applied to that use and no other so long as it is consistent with appropriate Kentucky Revised Statutes and the state plan for vocational education.

SECTION 593. KRS 163.098 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The principal of an area vocational education center or state vocational technical school shall be paid a base monthly salary, which is at least equal to the highest paid teacher supervised by the principal, when the education and experience of the principal is equal to or greater than that of the supervised employee.

SECTION 594. KRS 163.110 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

In enacting KRS 163.110 to 163.180 it is the intention of the General Assembly of Kentucky to provide for and improve the vocational rehabilitation of citizens of the Commonwealth of Kentucky with physical and mental handicaps in order that they may increase their social and economic well-being and the productive capacity of the Commonwealth and nation.

SECTION 595. KRS 163.130 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any individual with a physical or mental handicap:

(1) Who maintains a domicile in the Commonwealth at the time of filing his application therefor, and whose vocational rehabilitation the state vocational rehabilitation agency determines after full investigation can be satisfactorily achieved;or

(2) Who is eligible therefor under the terms of an agreement with another state or with the federal government.

SECTION 596. KRS 163.160 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved June 2, 1920 (41 Stat. 735) relating to vocational rehabilitation and all subsequent acts pertaining to state and federal vocational rehabilitation programs enacted prior to March 1, 1984, when such acts apply to joint state and federally funded vocational rehabilitation programs. The Governor of the Commonwealth may, by executive order, accept such Acts of Congress enacted subsequent to March 1, 1984, as may be deemed desirable and necessary.

SECTION 597. KRS 167.015 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Kentucky School for the Blind at Louisville, Kentucky and the Kentucky School for the Deaf at Danville, Kentucky, shall be managed and controlled by the State Board for Elementary and Secondary Education. The board shall have possession and the responsibility and authority for preservation, repair and control of the buildings and grounds belonging to the state and dedicated to the schools. The board may, except as provided in KRS 45.360, sell any property held for the use and benefit of the schools, and purchase other property deemed by the board to be suitably and conveniently located, and erect buildings necessary for carrying out the purposes of the schools. The board may adopt rules and regulations to carry into effect its powers with respect to the schools, and may require from the superintendent of the schools any reports and information it desires as to the condition of the schools.

SECTION 598. KRS 167.170 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The State Board for Elementary and Secondary Education shall alone have the power to expel a pupil from the Kentucky School for the Blind or the Kentucky School for the Deaf.

SECTION 599. KRS 167.210 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in KRS 167.210 to 167.240, unless the context otherwise requires, "deaf-blind children" are those children who have auditory and visual impairments, the combination of which causes such severe communication, developmental and educational problems that they cannot profit satisfactorily from educational programs provided solely for the visually handicapped child or for the hearing handicapped child.

SECTION 600. KRS 167.220 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The state Department of Education is hereby authorized to expend available funds for the purpose of sending children who are deaf-blind to any facility, school or institution, within or without the Commonwealth, which provides a qualified program of education for such children. Such funds may be spent for evaluation and diagnosis, room, board, tuition, transportation and other items which are necessarily relevant to the education of such children.

SECTION 601. KRS 167.240 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The state Department of Education is hereby authorized to adopt and promulgate such rules and regulations as it deems necessary and proper for carrying out the purposes of KRS 167.210 to 167.240.

SECTION 602. KRS 168.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

It is declared to be the legislative purpose of KRS 168.010 to 168.100, and the public policy of the Commonwealth, that there be established, developed and utilized in the public interest a network of educational television production and related facilities and transmission and relay stations such as will ultimately make available to students in public schools and state-supported institutions of higher education in the Commonwealth, and to any others who may choose to utilize the same, television programs and related services in aid of education, and for incidental use in other proper functions; and that the same be managed, controlled and operated in the public interest by an independent corporate agency and instrumentality of the Commonwealth having membership such as to be representative of the general public as well as public educational bodies at all levels.

SECTION 603. KRS 168.020 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the State Board for Elementary and Secondary Education;

(3) "Department" means the State Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on Higher Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and the University of Louisville; but does not include any present or future state supported junior colleges, unless by statute the same are given representation on the council;

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

SECTION 604. KRS 168.030 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

An independent agency and instrumentality of the Commonwealth is hereby created and established to be known as "The Kentucky Authority for Educational Television," the same being a public body corporate and politic, with perpetual succession, the power in its own name to contract and be contracted with, sue and be sued, to adopt and use a corporate seal, to adopt by-laws for the orderly conduct of its affairs, and to alter the same from time to time, to prescribe and enforce regulations governing the use of educational television and television facilities and related functions and facilities, and generally to have and use all powers of private corporations as set forth in KRS Chapter 271B, except as the same may be inconsistent with the provisions of KRS 168.010 to 168.100.

SECTION 605. KRS 168.070 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

At such organizational meeting, or at any subsequent meeting, the authority may elect an executive committee, not less than three (3) in number, of which the chairman or vice-chairman of the authority shall be a member and the presiding officer. The powers of the executive committee to transact business between meetings of the authority shall be defined, and may be limited, but it shall not be provided that actions of the executive committee within its defined powers and limitations are subject to review, or not final and binding as actions of the authority. The executive committee shall preserve minutes of its proceedings, and file a written copy thereof with the secretary at or before the next ensuing regular meeting of the authority.

SECTION 606. KRS 168.080 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Subject only to availability of funds from any source, the authority may employ and prescribe the qualifications and duties of such persons as it may deem necessary to the proper performance of its purposes and functions; including an executive director to serve as the principal executive of the authority, and a chief engineer to supervise its engineering staff. Compensation shall be such as may be fixed in accordance with the standards established by the State Commissioner of Personnel, except that the compensation for those officers and employees exempt from classified services as provided in KRS 18A.115 shall be determined by the authority not to exceed the maximum established by KRS 64.640(2).

SECTION 607. KRS 168.090 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Members of the authority who are otherwise compensated by the Commonwealth on a full time basis shall receive no additional compensation as members of the authority, or for attendance at meetings. Members who are not otherwise compensated by the Commonwealth on a full time basis shall receive a per diem of fifty dollars ($50) for attendance at each meeting, including reasonable travel time necessarily required.

(2) All members may be reimbursed for actual travel and other proper expenses according to reasonable rules and regulations of the authority. The scope of travel shall not be limited to the confines of the Commonwealth; but may extend to any place outside the Commonwealth if specifically authorized by the authority by motion, resolution or directive reciting the occasion, necessity, and persons authorized to travel.

SECTION 608. KRS 247.080 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

County boards of education may appropriate such sums of money out of their annual funds as in their wisdom are necessary to aid in carrying on extension work in agriculture and home economics in their respective counties, in connection with the University of Kentucky.

SECTION 609. KRS 273.070 IS REPEALED AND REENACTED TO READ AS FOLOWS:

Any incorporated college or university in this state may establish adjunct schools and colleges in any part of the state to be operated in connection with it. In order to establish and operate any adjunct school or college the institution establishing it may solicit and receive subscriptions and donations.

SECTION 610. KRS 273.080 IS REPEALED AND REENACTED TO READ AS FOLOWS:

All property procured for any adjunct school or college shall be held and applied by the governing body of the institution establishing it for the purpose of establishing and maintaining the adjunct school. The governing body may procure grounds and erect buildings for its use and occupation, appoint and remove its teachers, prescribe a course of study for its students, confer degrees of graduation from it and exercise the same general supervision and control over it that they may exercise over their own institution.

SECTION 611. KRS 273.130 IS REPEALED AND REENACTED TO READ AS FOLOWS:

If any religious society holding land dissolves, the title shall vest in the trustees of the county seminary in which the land lies for the use of that seminary, and if there is no such seminary, then in the county judge/executive, for the benefit of common schools in the county.

## PART VI - REPEALED SECTIONS

Section 612. The following KRS sections are repealed:

12.400 Legislative intent — Office of early childhood education and development established — Functions — Special assistant.

12.410 Governor's interagency council on early childhood education and development established — Functions — Members.

12.420 Interagency advisory committee established — Members — Meetings — Operating expenses.

132.750 When mobile home or recreational vehicle classified as real estate.

156.022 Division of surplus property.

156.080 School census — Forms and rules for.

156.090 Certificates of school employees — Board to publish regulations concerning.

156.134 Notice of suspension — Answer — Hearing — Appeal.

156.165 Superintendent to inform local boards of availability of federal funds for exceptional children.

156.170 Superintendent may take special school census.

156.180 Superintendent may attend educational conferences.

156.220 Superintendent to render advice on any controversy or dispute involving proper administration of public schools.

156.490 Governor's conference on education.

156.499 Termination of boards, commissions, councils and committees.

157.221 Office of education for exceptional children — Functions — Duties of state board for elementary and secondary education.

157.545 Power equalization program fund.

157.550 Determination of amount of state power equalization support for each school district.

157.555 Calculation of amount of state power equalization support.

157.560 Determination of maximum rate support — Minimum rate established.

157.564 Twenty-five cent school levy tax by district school board necessary for eligibility for state power equalization support.

157.570 Procedure for payments of funds to districts.

157.575 Power equalization support — Calculation of equivalent tax rate.

157.580 Use of power equalization funds.

158.090 Kindergartens — Night schools.

158.130 Pupils sent to other districts.

158.285 Teaching of Kentucky government — Statewide program — Instruction of all grade levels.

158.286 Teaching of Kentucky government — Adoption of policies by local school districts.

158.295 Development of program to deal with delinquency, drug abuse, vandalism, absenteeism and other related acts of student behavior.

158.355 Early childhood education — State policy.

158.380 Administration of voter education law.

158.385 Instruction required in grades nine to twelve.

158.390 Development of comprehensive statewide program for public schools.

158.395 Local school district policy.

158.405 Administration — Rules and regulations.

158.410 Instruction.

158.415 Development of program — Curricula.

158.420 Teacher's and administrator's training programs.

158.425 Policy of local school district.

158.430 Teacher's assistants permitted.

158.600 Legislative intent of KRS 158.605 to 158.620 and 157.360.

158.605 Definitions for KRS 158.600 to 158.620 and 157.360.

158.607 Advisory council for gifted and talented education — Two-year existence — Powers and duties.

158.610 Local district requirements to be set by administrative regulation to implement program.

158.618 Evaluation procedure to monitor gifted and talented programs.

158.620 Reports required.

158.640 Legislative purpose.

158.6401 Definitions.

158.6402 Advisory council for sports medicine programs.

158.6403 Implementation of experimental incentive program to assist local school district sports medicine programs.

158.660 Intent and purpose.

158.665 Basic skills development regulations.

158.670 Department to administer Educational Improvement Act — Administrative regulations.

158.690 Assessment and testing program — Publication of test results.

158.700 Specific duties of department relating to testing.

158.730 Department to submit plans and reports to various officers and agencies.

158.740 Title.

158.795 Statewide adult literacy program.

158.797 Parenting and family life skills education.

158.800 Educational excellence improvement fund — Intent — Allotment of funds.

159.110 Expenses of directors of pupil personnel.

159.120 Office quarters of directors of pupil personnel.

159.240 Continuing school census to be maintained.

160.047 Application of KRS 160.045.

160.306 Implementation of KRS 160.305 — Pilot projects.

160.360 Assistant superintendents.

160.420 Interest in teacher's claim prohibited.

160.590 Special funds — Disposition of.

160.599 Emergency loans to public common school districts.

161.025 Kentucky council on teacher education and certification created — Membership — Terms — Duties.

161.121 Definitions for KRS 161.122.

161.122 Career-ladder commission to develop pilot program — Commission report required — Initiation of two-year program.

161.162 Discrimination prohibited.

161.721 Superintendent eligible for continuing contract status.

161.765 Procedures for demotion of administrative personnel — Appeal.

161.841 Retirement plan for noninstructional school employees.

165.270 City of first class may provide for training teachers.

165.280 Board of education in county containing city of fourth class may establish junior college — Tax for support — Election on question of establishment.

165.290 What constitutes junior college — Course of instruction.

165.300 Tuition and fees — College fund.

165.310 Site and buildings — Issuance of bonds.

## PART VII - REVENUE MEASURES

## PART VIIA

Section 613. KRS 138.140 is amended to read as follows:

A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of ***ten cents (10)*** [~~three cents (3)~~] on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.

Section 614. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by affixing evidence of tax payment in the manner and at the time set forth in this section. The evidence of tax payment shall be affixed to each individual package of cigarettes by a resident wholesaler within seventy-two (72) hours after the cigarettes are received by him. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The cabinet shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes.

(4) Units of cigarette tax evidence shall be sold at their face value, but the cabinet shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to ***nine cents (9)*** [~~thirty cents (30)~~] face value for each three dollars ($3.00) of tax evidence purchased at face value. The cabinet shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the cabinet. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded or loaned to any other person. Unaffixed tax evidence may be returned to the cabinet for credit or refund for any reason satisfactory to the cabinet.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the cabinet of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the cabinet. The written notice may also be directed to the secretary of revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the cabinet, and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

SECTION 615. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

***(1) (a) Every person possessing cigarettes intended for sale in this state shall, on or before July 15, 1990, report and pay to the Revenue Cabinet a floor stocks tax at a proportionate rate of seven cents (7) on each twenty (20) Kentucky taxpaid cigarettes in his inventory at the beginning of business on the effective date of Part VIIA of this Act.***

***(b) Every person licensed under KRS 138.195(2) or (6) shall, on or before July 15, 1990, report and pay to the Revenue Cabinet a floor stocks tax at a proportionate rate of seven cents (7) per twenty (20) cigarettes on all unaffixed Kentucky cigarette tax evidence in his inventory at the beginning of business***

***on the effective date of Part VIIA of this Act.***

***(c) The report required pursuant to this subsection shall be made on such forms and contain such information as the Revenue Cabinet may require to protect the revenues of the Commonwealth.***

***(2) Any person who fails to report and pay the tax as required by subsection (1) of this section shall pay penalty and interest as prescribed in KRS 138.185.***

Section 616. The provisions of Part VIIA of this Act shall be effective July 1, 1990.

## PART VIIB

SECTION 617. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

***(1) "Legal services" means all services rendered involving legal knowledge or legal advice, whether of representation, counsel, or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of persons requiring the services of an attorney and includes, but is not limited to, the following:***

***(a) Paralegal work performed for or under the supervision of an attorney;***

***(b) Tax return preparation and tax and estate planning;***

***(c) Services performed by an attorney incident to the rendering of legal services; and***

***(d) Any incidental services, such as expert witness fees and court reporting fees, that are passed on to the attorney's client.***

***(2) "Engineering, architectural, and surveying services" means those services described in KRS 322.010(3), 322.010(5) and 323.010(3).***

***(3) "Accounting, auditing, and bookkeeping services" means all services generally considered to be accounting, auditing, and bookkeeping services under the common meanings of those terms and includes, but is not limited to, the following:***

***(a) Tax return preparation and tax and estate planning;***

***(b) Preparation and analysis of business reports and records; and***

***(c) Financial planning.***

***(4) "Management and consulting services" means all services generally considered to be management and consulting services under the common meanings of those terms which are provided to businesses, whether provided on a contract or fee basis, and includes, but is not limited to, the following:***

***(a) Furnishing general or specialized management services including administrative management services, business management services, circuit management services for motion picture theaters, construction management services, hotel and motel management services, apartment management services, and office management services;***

***(b) Furnishing operating advice and assistance to managements of organizations, including strategic and organizational planning, financial planning and budgeting, marketing objectives and policies, research, information systems planning, human resources policies and practices planning, production scheduling and control planning, physical distribution consulting, and site location consulting;***

***(c) Preparation or presentation of materials, written or spoken, which are designed to influence the general public or other groups in promoting the interests of clients, including lobbying and public relations services; and***

***(d) Other business consulting services, including economic consulting, educational consulting, industrial development planning, media consulting, systems engineering consulting, test development and evaluation services, testing services, and traffic consulting.***

***(5) "Computer services" means all services generally considered to be computer services under the common meaning of that term, and includes, but is not limited to, the following:***

***(a) Software design, analysis, and modification;***

***(b) Training in the use of computer hardware and software;***

***(c) Computer systems development and design;***

***(d) Data processing and data entry;***

***(e) Word processing;***

***(f) Optical scanning;***

***(g) Programming; and***

***(h) Information retrieval, including on-line data services.***

***(6) "Detective and security services" means all services generally considered to be detective and security services under the common meanings of those terms, and includes, but is not limited to, the following:***

***(a) Armored car services;***

***(b) Investigation services;***

***(c) Guard dog services;***

***(d) Polygraph services;***

***(e) Fingerprint, voiceprint, spectrum analysis, and other similar services designed to provide information or analysis related to investigation services;***

***(f) Guard services;***

***(g) Security system services;***

***(h) Surveillance services; and***

***(i) Credit investigation and reporting services.***

***(7) "Janitorial services" means building cleaning, including, but not limited to, cleaning of windows, floors, walls, and ceilings, and building maintenance and incidental repairs performed under an agreement to furnish janitorial services, but not including the cleaning of residences where the cost of cleaning is paid directly by the occupant.***

***(8) "Advertising services" means:***

***(a) All advertising agency services under the common meaning of that term including, but not limited to, the following:***

***1. Preparation of copy, artwork, and other creative work;***

***2. Media buying and media consulting services; and***

***3. Preparation of advertising material for billboards, signs, posters, panels, bulletins, handbills, and other items;***

***(b) Placement of advertising services. "Placement of advertising services" means the sale of advertising services for the delivery or dissemination of information directly to the public by newspaper, radio, television, or other media. For purposes of "placement of advertising services," out-of-state purchasers are deemed to receive all or part of the economic benefit in this state when the advertisement is purchased from a provider in this state for delivery or dissemination to the public either in this state or both within and without this state. "Placement of advertising services" is subject to the taxes imposed by this chapter:***

***1. If the delivery or dissemination of the advertising originates in this state; or***

***2. If such advertising is purchased from an out-of-state provider for the purpose of soliciting customers for a specific vendor or vendors located in this state;***

***(c) Miscellaneous advertising services including, but not limited to, the following:***

***1. Sound trucks;***

***2. Bus and taxicab advertising;***

***3. Distribution of advertising materials;***

*4. Skywriting and other aerial advertising; and*

*5. Display of advertising on billboards, signs, posters, panels, bulletins, handbills, and other items.*

*(9) "Passenger transportation services" means the transportation of fee-paying passengers by means of motor vehicle, boat, airplane, or other conveyance, except a medical emergency vehicle, in which the passenger controls the destination or route.*

*(10) "Security and commodity brokerage services" means all services generally considered to be security and commodity brokerage services under the common meanings of those terms, and includes, but is not limited to, the service of underwriting, purchasing, selling, or brokerage of securities and other financial contracts.*

*(11) "Temporary help services" means services in which temporary or continuing help is supplied on a contract or fee basis, where the help supplied is on the payroll of the supplying establishment, but is under the direct or general supervision of the receiving establishment, excluding personal care services provided to a sick, infirm, or elderly individual, and includes, but is not limited to, the following:*

*(a) Modeling services;*

*(b) Manpower services;*

*(c) Shopping services;*

*(d) Office help services; and*

*(e) Escort services.*

*(12) "Towel and linen services" means supplying to commercial establishments or household users, on a rental basis, laundered items including, but not limited to, uniforms, gowns, and coats of the type used by doctors, nurses, barbers, beauticians, and waitresses, and table linens, bed linens, towels and toweling, and similar items, but not including diapers. "Towel and linen service" includes, but is not limited to, the following:*

*(a) Apron supply service;*

*(b) Coat supply service;*

*(c) Continuous towel supply service;*

*(d) Gown or uniform supply service;*

*(e) Linen and table cover supply service; and*

*(f) Shirt supply service.*

*(13) "Bill collection services" means collection or adjustment of money or property in satisfaction of claims, and includes, but is not limited to, the following:*

*(a) Delinquent accounts collection services; and*

*(b) Unhonored check collection services.*

*(14) "Cable television services" means the dissemination of television programs, on a subscription or fee basis, through a tangible medium, and includes, but is not limited to, the following:*

*(a) Providing television viewing of single events; and*

*(b) Incidental services including installation charges.*

*(15) The definitions in this section shall apply to services that are the subject of a contract providing for the payment of a retainer fee, regardless of whether the services are actually performed.*

*(16) The term "services" as used in this section does not include work performed by an employee of the recipient of such services as the term "employee" is defined under the common law meaning of that term.*

*(17) The cabinet shall promulgate administrative regulations for the administration of the tax imposed on services as defined in this section. In promulgating administrative regulations, the cabinet may use the Standard Industrial Classification Manual published by the Executive Office of the President, Office of Management and Budget.*

Section 618. KRS 139.090 is amended to read as follows:

"Purchase" means ***the acquisition of any services as defined in Section 617 of this Act and*** any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration and includes:

(1) When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;

(2) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;

(3) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

Section 619. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of tangible personal property, or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of ninety (90) days or more to an individual;

(b) The furnishing of sewer servicesand intrastate telephonic and telegraphic communications and services;

(c) The sale of admissions, except, those taxed under KRS 138.480***; and***

***(d) The furnishing in this state of legal services; engineering, architectural and surveying services; accounting, auditing and bookkeeping services; management and consulting services; computer services; detective and security services; janitorial services; advertising services; passenger transportation services; security and commodity brokerage services; temporary help services; towel and linen services; bill collection services; and cable television services, as those terms are defined in Section 617 of this Act. The above services when purchased by an out-of-state purchaser for economic benefit solely outside this state shall be deemed not to be furnished in this state. The economic benefit of a service occurs at the point where the recipient of the service utilizes the service to produce income or otherwise enjoys or makes use of the service.***

Section 620. KRS 139.130 is amended to read as follows:

(1) "Sales price" means the total amount for which tangible personal property ***or services as defined in Section 617 of this Act are*** [~~is~~] sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold;

(b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses;

(c) The cost of transportation of the property prior to its purchase.

(2) The total amount for which property ***or services as defined in Section 617 of this Act are*** [~~is~~] sold includes all of the following:

(a) Any services that are a part of the sale;

(b) Any amount for which credit is given to the purchaser by the seller.

(3) "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales (excluding trading or premium stamps);

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The amount charged for labor or services rendered in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Section 621. KRS 139.170 is amended to read as follows:

***(1)*** "Machinery for new and expanded industry" shall mean that machinery used directly in the manufacturing or processing production process, which is incorporated for the first time into plant facilities established in this state, and which does not replace machinery in such plants. The term "processing production" shall include: the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone and natural gas.

***(2) "Machinery for new and expanded industry" shall not include machinery used in the rendition of services as set forth in KRS 139.100.***

Section 622. KRS 139.190 is amended to read as follows:

"Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, or by any transaction in which possession is given, except that it does not include the sale of that property in the regular course of business. ***"Use" also includes the receipt of the economic benefit in this state from services as defined in Section 617 of this Act.***

Section 623. KRS 139.200 is amended to read as follows:

***(1)*** For the privilege of making "retail sales" or "sales at retail," a tax is hereby imposed upon all retailers at the rate of five percent (5%) of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within this Commonwealth [~~on and after April 1, 1968~~].

***(2) The tax imposed by this section shall not apply to the sale of services as defined in Section 617 of this Act performed under the terms of a written contract in force on or before the date of the introduction of this Act provided the contract does not contain a provision which permits the tax to be passed on to the recipient of the service. This exclusion from tax does not apply to the renewal, extension, or other alteration of a written contract in force on the date of the introduction of this Act.***

Section 624. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property ***or services as defined in Section 617 of this Act*** sold or that if added it or any part thereof will be refunded.

Section 625. KRS 139.310 is amended to read as follows:

An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property ***or services as defined in Section 617 of this Act*** purchased [~~on and after April 1, 1968,~~] for storage, use or other consumption in this state at the rate of five percent (5%) of the sales price of the property ***or services as defined in Section 617 of this Act.***

Section 626. KRS 139.330 is amended to read as follows:

Every person storing, using or otherwise consuming in this state tangible personal property ***or services as defined in Part VIIB of this Act*** purchased from a retailer is liable for the use tax levied under KRS 139.310. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the cabinet, under such rules and regulations as it may prescribe, to collect the tax ***on sales of tangible personal property*** and who is, for the purpose of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Section 627. KRS 139.450 is amended to read as follows:

It shall be presumed that tangible personal property ***or services as defined in Section 617 of this Act*** shipped or brought to this state by the purchaser ***were*** [~~after March 31, 1968, was~~] purchased from a retailer [~~on or after April 1, 1968,~~] for storage, use or other consumption in this state.

Section 628. KRS 139.490 is amended to read as follows:

If a purchaser certifies in writing to a seller that the property ***or services*** purchased will be used in a manner or for a purpose entitling the seller to exclude from the computation of the sales tax the gross receipts from the sale and uses the property ***or services*** in some other manner or for some other purpose, the purchaser, not the seller, shall be liable for payment of sales tax as if he were a retailer making a retail sale of the property ***or services*** at the time of such use, and the cost of the property ***or services*** to him shall be deemed the gross receipts from such retail sale. The certificate of exemption relieves the seller from the sales and use tax only if he takes the certificate in good faith from the purchaser. Good faith shall be demonstrated by the seller if he accepts a signed certificate and maintains a file of such certificate in accordance with KRS 139.720. If the cabinet later finds that the purchaser used the property ***or services*** in a manner that would not have qualified for tax exempt status, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply any penalties as provided in KRS 139.990.

Section 629. KRS 139.496 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to the first ***one thousand*** [~~five hundred~~] dollars ***($1,000)*** [~~($500)~~] of sales made in any calendar year by individuals or nonprofit organizations not engaged in the business of selling. This exemption is limited to the following types of transactions or activities:

(a) Garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business;

(b) Fund raising event held by nonprofit civic, governmental, or other nonprofit organizations, except as set forth in KRS 139.497***; and***

***(c) Services provided by individuals or nonprofit organizations not regularly engaged in the business of providing services.***

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale or where nonprofit organizations conduct regular selling activities in competition with private business.

Section 630. KRS 139.510 is amended to read as follows:

The tax levied by KRS 139.310 shall not apply with respect to the storage, use or other consumption of tangible personal property ***or services as defined in Section 617 of this Act*** in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes and the like) equal to or greater than the amount of tax imposed by KRS 139.310 has been paid in another state. Proof of payment of such tax shall be according to rules and regulations of the cabinet. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the cabinet an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.

Section 631. KRS 139.550 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in such form as the cabinet may prescribe.

(2) For purposes of the sales tax a return shall be filed by every seller. For purposes of the use tax a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, ***or services as defined in Section 617 of this Act,*** the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.

(3) Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

(4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under such rules as the cabinet shall provide for the efficient collection of the sales tax on such sales.

Section 632. KRS 139.560 is amended to read as follows:

(1) For the purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) In case of a return filed by a purchaser, the return shall show the total sales price of the property ***or services as defined in Section 617 of this Act*** purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period.

(3) The return shall also show the amount of the taxes for the period covered by the return and such other information as the cabinet deems necessary for the proper administration of this chapter.

Section 633. KRS 139.720 is amended to read as follows:

(1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property ***or services as set forth in KRS 139.100*** purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the cabinet in writing sooner authorizes their destruction.

Section 634. KRS 139.730 is amended to read as follows:

In the administration of the use tax, the cabinet may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property ***or services as set forth in KRS 139.100***, the storage, use, or other consumption of which is subject to the tax. The report shall be filed at the time specified by the cabinet and shall contain such information as the cabinet may require.

Section 635. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property ***or services as set forth in KRS 139.100*** unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the cabinet a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the cabinet may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the cabinet, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.

(4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

Section 636. The provisions of Part VIIB of this Act shall be effective July 1, 1990.

## PART VIIC

Section 637. KRS 141.040 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3) and (4) of this section:

(a) S corporations;

(b) State and national banks and trust companies;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers and reciprocal underwriters;

(g) Corporations exempt under section 501 of the Internal Revenue Code;

(h) Religious, educational, charitable or like corporations not organized or conducted for pecuniary profit; and

(i) Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, and whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced.

(2) [~~For tax years ending before August 1, 1985, the following rates shall apply:~~

~~(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;~~

~~(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);~~

~~(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000); and~~

~~(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000).~~

~~(3)~~] For tax years ***ending before January 1, 1990*** [~~beginning after July 31, 1985~~], the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

***(3) For tax years beginning after December 31, 1989, the following rates shall apply:***

***(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) of taxable net income;***

***(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);***

***(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);***

***(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and***

***(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).***

(4) For tax years beginning before ***January*** [~~August~~] 1, ***1990*** [~~1985~~], and ending after ***December*** [~~July~~] 31, ***1989*** [~~1985~~], the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through ***December*** [~~July~~] 31, ***1989*** [~~1985~~], and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from ***January*** [~~August~~] 1, ***1990*** [~~1985~~], through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000);

In no event shall the tax levied by this subsection apply if section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

## PART VIID

Section 638. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) [~~For tax years beginning on or after January 1, 1982, except as otherwise provided in this section,~~] "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***1989*** [~~1985~~], exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee; and

(e) Exclude social security and tier I railroad retirement benefits subject to federal income tax;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include***, for taxable years ending before January 1, 1991,*** all overpayments of federal income tax refunded or credited ***for*** [~~to the taxpayer during the~~] taxable ***years*** [~~year~~]; and

(b) Deduct***, for taxable years ending before January 1, 1991,*** federal income tax ***paid for taxable years ending before January 1, 1990***;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 and by section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and

(e) Exclude expenses related to "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in section 528(c) of the Internal Revenue Code, means "taxable income" as defined in section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in section 3401(f) and section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 639. KRS 141.023 is amended to read as follows:

***To facilitate tax computation and tax return preparation, the Revenue Cabinet may develop optional tax tables and specify the classes of taxpayers eligible to utilize the tables in the preparation of their returns.*** [~~Any individual whose adjusted gross income for the taxable year for which the return is filed does not exceed eight thousand dollars ($8,000) may elect to compute his annual tax under this section. This annual tax shall be determined by deducting the tax credits authorized by KRS 141.020(3) from the amount indicated by the following table which gives effect to a standard deduction of six hundred and fifty dollars ($650).~~

### ~~OPTIONAL TABLE~~

| ~~If Adjusted Gross Income Is Over~~ | ~~But Not Over~~ | ~~Amount Shall Be~~ |
|---|---|---|
| ~~$ 650~~ | ~~$ 700~~ | ~~$ .50~~ |
| ~~700~~ | ~~750~~ | ~~1.50~~ |
| ~~750~~ | ~~800~~ | ~~2.50~~ |
| ~~800~~ | ~~850~~ | ~~3.50~~ |
| ~~850~~ | ~~900~~ | ~~4.50~~ |
| ~~900~~ | ~~950~~ | ~~5.50~~ |
| ~~950~~ | ~~1,000~~ | ~~6.50~~ |
| ~~1,000~~ | ~~1,050~~ | ~~7.50~~ |
| ~~1,050~~ | ~~1,100~~ | ~~8.50~~ |
| ~~1,100~~ | ~~1,150~~ | ~~9.50~~ |
| ~~1,150~~ | ~~1,200~~ | ~~10.50~~ |
| ~~1,200~~ | ~~1,250~~ | ~~11.50~~ |
| ~~1,250~~ | ~~1,300~~ | ~~12.50~~ |
| ~~1,300~~ | ~~1,350~~ | ~~13.50~~ |
| ~~1,350~~ | ~~1,400~~ | ~~14.50~~ |
| ~~1,400~~ | ~~1,450~~ | ~~15.50~~ |
| ~~1,450~~ | ~~1,500~~ | ~~16.50~~ |
| ~~1,500~~ | ~~1,550~~ | ~~17.50~~ |
| ~~1,550~~ | ~~1,600~~ | ~~18.50~~ |
| ~~1,600~~ | ~~1,650~~ | ~~19.50~~ |
| ~~1,650~~ | ~~1,700~~ | ~~20.50~~ |
| ~~1,700~~ | ~~1,750~~ | ~~21.50~~ |
| ~~1,750~~ | ~~1,800~~ | ~~22.50~~ |
| ~~1,800~~ | ~~1,850~~ | ~~23.50~~ |
| ~~1,850~~ | ~~1,900~~ | ~~24.50~~ |
| ~~1,900~~ | ~~1,950~~ | ~~25.50~~ |
| ~~1,950~~ | ~~2,000~~ | ~~26.50~~ |
| ~~2,000~~ | ~~2,050~~ | ~~27.50~~ |
| ~~2,050~~ | ~~2,100~~ | ~~28.50~~ |
| ~~2,100~~ | ~~2,150~~ | ~~29.50~~ |
| ~~2,150~~ | ~~2,200~~ | ~~30.50~~ |
| ~~2,200~~ | ~~2,250~~ | ~~31.50~~ |
| ~~2,250~~ | ~~2,300~~ | ~~32.50~~ |

| ~~If Adjusted Gross Income Is Over~~ | ~~But Not Over~~ | ~~Amount Shall Be~~ |
|---|---|---|
| ~~2,300~~ | ~~2,350~~ | ~~33.50~~ |
| ~~2,350~~ | ~~2,400~~ | ~~34.50~~ |
| ~~2,400~~ | ~~2,450~~ | ~~35.50~~ |
| ~~2,450~~ | ~~2,500~~ | ~~36.50~~ |
| ~~2,500~~ | ~~2,550~~ | ~~37.50~~ |
| ~~2,550~~ | ~~2,600~~ | ~~38.50~~ |
| ~~2,600~~ | ~~2,650~~ | ~~39.50~~ |
| ~~2,650~~ | ~~2,700~~ | ~~40.50~~ |
| ~~2,700~~ | ~~2,750~~ | ~~41.50~~ |
| ~~2,750~~ | ~~2,800~~ | ~~42.50~~ |
| ~~2,800~~ | ~~2,850~~ | ~~43.50~~ |
| ~~2,850~~ | ~~2,900~~ | ~~44.50~~ |
| ~~2,900~~ | ~~2,950~~ | ~~45.50~~ |
| ~~2,950~~ | ~~3,000~~ | ~~46.50~~ |
| ~~3,000~~ | ~~3,050~~ | ~~47.50~~ |
| ~~3,050~~ | ~~3,100~~ | ~~48.50~~ |
| ~~3,100~~ | ~~3,150~~ | ~~49.50~~ |
| ~~3,150~~ | ~~3,200~~ | ~~50.50~~ |
| ~~3,200~~ | ~~3,250~~ | ~~51.50~~ |
| ~~3,250~~ | ~~3,300~~ | ~~52.50~~ |
| ~~3,300~~ | ~~3,350~~ | ~~53.50~~ |
| ~~3,350~~ | ~~3,400~~ | ~~54.50~~ |
| ~~3,400~~ | ~~3,450~~ | ~~55.50~~ |
| ~~3,450~~ | ~~3,500~~ | ~~56.50~~ |
| ~~3,500~~ | ~~3,550~~ | ~~57.50~~ |
| ~~3,550~~ | ~~3,600~~ | ~~58.50~~ |
| ~~3,600~~ | ~~3,650~~ | ~~59.50~~ |
| ~~3,650~~ | ~~3,700~~ | ~~60.75~~ |
| ~~3,700~~ | ~~3,750~~ | ~~62.25~~ |
| ~~3,750~~ | ~~3,800~~ | ~~63.75~~ |
| ~~3,800~~ | ~~3,850~~ | ~~65.25~~ |
| ~~3,850~~ | ~~3,900~~ | ~~66.75~~ |
| ~~3,900~~ | ~~3,950~~ | ~~68.25~~ |
| ~~3,950~~ | ~~4,000~~ | ~~69.75~~ |

| ~~If Adjusted Gross Income Is Over~~ | ~~But Not Over~~ | ~~Amount Shall Be~~ |
|---|---|---|
| ~~4,000~~ | ~~4,050~~ | ~~71.25~~ |
| ~~4,050~~ | ~~4,100~~ | ~~72.75~~ |
| ~~4,100~~ | ~~4,150~~ | ~~74.25~~ |
| ~~4,150~~ | ~~4,200~~ | ~~75.75~~ |
| ~~4,200~~ | ~~4,250~~ | ~~77.25~~ |
| ~~4,250~~ | ~~4,300~~ | ~~78.75~~ |
| ~~4,300~~ | ~~4,350~~ | ~~80.25~~ |
| ~~4,350~~ | ~~4,400~~ | ~~81.75~~ |
| ~~4,400~~ | ~~4,450~~ | ~~83.25~~ |
| ~~4,450~~ | ~~4,500~~ | ~~84.75~~ |
| ~~4,500~~ | ~~4,550~~ | ~~86.25~~ |
| ~~4,550~~ | ~~4,600~~ | ~~87.75~~ |
| ~~4,600~~ | ~~4,650~~ | ~~89.25~~ |
| ~~4,650~~ | ~~4,700~~ | ~~91.00~~ |
| ~~4,700~~ | ~~4,750~~ | ~~93.00~~ |
| ~~4,750~~ | ~~4,800~~ | ~~95.00~~ |
| ~~4,800~~ | ~~4,850~~ | ~~97.00~~ |
| ~~4,850~~ | ~~4,900~~ | ~~99.00~~ |
| ~~4,900~~ | ~~4,950~~ | ~~101.00~~ |
| ~~4,950~~ | ~~5,000~~ | ~~103.00~~ |
| ~~5,000~~ | ~~5,050~~ | ~~105.00~~ |
| ~~5,050~~ | ~~5,100~~ | ~~107.00~~ |
| ~~5,100~~ | ~~5,150~~ | ~~109.00~~ |
| ~~5,150~~ | ~~5,200~~ | ~~111.00~~ |
| ~~5,200~~ | ~~5,250~~ | ~~113.00~~ |
| ~~5,250~~ | ~~5,300~~ | ~~115.00~~ |
| ~~5,300~~ | ~~5,350~~ | ~~117.00~~ |
| ~~5,350~~ | ~~5,400~~ | ~~119.00~~ |
| ~~5,400~~ | ~~5,450~~ | ~~121.00~~ |
| ~~5,450~~ | ~~5,500~~ | ~~123.00~~ |
| ~~5,500~~ | ~~5,550~~ | ~~125.00~~ |
| ~~5,550~~ | ~~5,600~~ | ~~127.00~~ |
| ~~5,600~~ | ~~5,650~~ | ~~129.00~~ |
| ~~5,650~~ | ~~5,700~~ | ~~131.25~~ |

| ~~If Adjusted Gross Income Is Over~~ | ~~But Not Over~~ | ~~Amount Shall Be~~ |
|---|---|---|
| ~~5,700~~ | ~~5,750~~ | ~~133.75~~ |
| ~~5,750~~ | ~~5,800~~ | ~~136.25~~ |
| ~~5,800~~ | ~~5,850~~ | ~~138.75~~ |
| ~~5,850~~ | ~~5,900~~ | ~~141.25~~ |
| ~~5,900~~ | ~~5,950~~ | ~~143.75~~ |
| ~~5,950~~ | ~~6,000~~ | ~~146.25~~ |
| ~~6,000~~ | ~~6,050~~ | ~~148.75~~ |
| ~~6,050~~ | ~~6,100~~ | ~~151.25~~ |
| ~~6,100~~ | ~~6,150~~ | ~~153.75~~ |
| ~~6,150~~ | ~~6,200~~ | ~~156.25~~ |
| ~~6,200~~ | ~~6,250~~ | ~~158.75~~ |
| ~~6,250~~ | ~~6,300~~ | ~~161.25~~ |
| ~~6,300~~ | ~~6,350~~ | ~~163.75~~ |
| ~~6,350~~ | ~~6,400~~ | ~~166.25~~ |
| ~~6,400~~ | ~~6,450~~ | ~~168.75~~ |
| ~~6,450~~ | ~~6,500~~ | ~~171.25~~ |
| ~~6,500~~ | ~~6,550~~ | ~~173.75~~ |
| ~~6,550~~ | ~~6,600~~ | ~~176.25~~ |
| ~~6,600~~ | ~~6,650~~ | ~~178.75~~ |
| ~~6,650~~ | ~~6,700~~ | ~~181.25~~ |
| ~~6,700~~ | ~~6,750~~ | ~~183.75~~ |
| ~~6,750~~ | ~~6,800~~ | ~~186.25~~ |
| ~~6,800~~ | ~~6,850~~ | ~~188.75~~ |
| ~~6,850~~ | ~~6,900~~ | ~~191.25~~ |
| ~~6,900~~ | ~~6,950~~ | ~~193.75~~ |
| ~~6,950~~ | ~~7,000~~ | ~~196.25~~ |
| ~~7,000~~ | ~~7,050~~ | ~~198.75~~ |
| ~~7,050~~ | ~~7,100~~ | ~~201.25~~ |
| ~~7,100~~ | ~~7,150~~ | ~~203.75~~ |
| ~~7,150~~ | ~~7,200~~ | ~~206.25~~ |
| ~~7,200~~ | ~~7,250~~ | ~~208.75~~ |
| ~~7,250~~ | ~~7,300~~ | ~~211.25~~ |
| ~~7,300~~ | ~~7,350~~ | ~~213.75~~ |
| ~~7,350~~ | ~~7,400~~ | ~~216.25~~ |

| ~~If Adjusted Gross Income Is Over~~ | ~~But Not Over~~ | ~~Amount Shall Be~~ |
|---|---|---|
| ~~7,400~~ | ~~7,450~~ | ~~218.75~~ |
| ~~7,450~~ | ~~7,500~~ | ~~221.25~~ |
| ~~7,500~~ | ~~7,550~~ | ~~223.75~~ |
| ~~7,550~~ | ~~7,600~~ | ~~226.25~~ |
| ~~7,600~~ | ~~7,650~~ | ~~228.75~~ |
| ~~7,650~~ | ~~7,700~~ | ~~231.25~~ |
| ~~7,700~~ | ~~7,750~~ | ~~233.75~~ |
| ~~7,750~~ | ~~7,800~~ | ~~236.25~~ |
| ~~7,800~~ | ~~7,850~~ | ~~238.75~~ |
| ~~7,850~~ | ~~7,900~~ | ~~241.25~~ |
| ~~7,900~~ | ~~7,950~~ | ~~243.75~~ |
| ~~7,950~~ | ~~8,000~~ | ~~246.25~~] |

Section 640. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds ***five thousand*** [~~sixteen hundred and fifty~~] dollars ***($5,000)*** [~~($1,650)~~], if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds ***five thousand*** [~~twenty-six hundred and fifty~~] dollars ***($5,000)*** [~~($2,650)~~] shall make to the cabinet a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds ***five thousand*** [~~thirty-six hundred and fifty~~] dollars ***($5,000)*** [~~($3,650)~~]. Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds ***five*** [~~four~~] thousand [~~nine hundred~~] dollars ***($5,000)*** [~~($4,900)~~].

(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of ***five thousand*** [~~sixteen hundred and fifty~~] dollars ***($5,000)*** [~~($1,650)~~] or more, shall make a return.

(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of sixteen hundred and fifty dollars ($1,650) or over shall make a return.

(6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(7) [~~An optional return properly filed under the provisions of KRS 141.023 shall be deemed sufficient to satisfy the provisions of this section.~~

~~(8)~~] Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 641. KRS 141.190 is amended to read as follows:

(1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the

property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the cabinet:

(a) Every individual having an adjusted gross income for the taxable year which exceeds ***five thousand*** [~~sixteen hundred and fifty~~] dollars ***($5,000)*** [~~($1,650)~~];

(b) Every estate the gross income of which for the taxable year is twelve hundred dollars ($1,200) or over;

(c) Every trust the gross income of which for the taxable year is one hundred dollars ($100) or over.

(2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 642. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed ***five*** [~~two~~] thousand dollars ***($5,000)*** [~~($2,000)~~] for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.

(2) In the declaration required under subsection (1) the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310 and 141.315;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year;

(d) Such other information as may be prescribed in regulations promulgated by the cabinet;

(e) Notwithstanding the above provisions, no declaration is required if the estimated tax can reasonably be expected to be less than forty dollars ($40.00).

(3) The declaration required under subsection (1) shall be filed with the cabinet on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may make amendments of a declaration filed during the taxable year under subsection (3), under regulations prescribed by the cabinet.

(5) If on or before January 31 of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable then, under regulations prescribed by the cabinet:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such January 15, such return shall, for the purposes of this section, be considered as such declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before such January 15.

(6) The cabinet shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extension shall be for more than six (6) months.

(7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized

agent or by the guardian, conservator or other person charged with the care of the person or property of such taxpayer.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 643. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon such wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) [~~The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If congress changes substantially the federal income tax, the cabinet shall make such change in these tables as necessary to compensate for any increase or decrease in the deductible federal income tax.~~

~~(6)~~] The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of such calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

***(6)***[~~(7)~~] The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount that would be required to be deducted and withheld during such quarter if the payroll period of the employee was quarterly.

***(7)***[~~(8)~~] The cabinet is authorized to provide by regulation, under such conditions and to such extent as it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

***(8)***[~~(9)~~] Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. Such bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but in no case shall exceed fifty thousand dollars ($50,000).

***(9)***[~~(10)~~] The Commonwealth may bring an action for a restraining order, temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

SECTION 644. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***(1) Individuals whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be deducted from the amount of the tax liability calculated under KRS 141.020 after deducting any credits claimed by the taxpayer under the provisions of KRS 141.065, 141.070, and 155.440.***

***(2) For a husband and wife living together, whether filing jointly or separately, the "low income" tax credit shall be computed on the basis of their combined adjusted gross income and shall be deductible from their combined tax liability.***

***(3) The "low income" tax credit shall be computed as follows:***

| ***AMOUNT OF ADJUSTED GROSS INCOME*** | ***PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT*** |
|---|---|
| ***less than $5,000*** | ***100%*** |
| ***$ 5,000 but not over $ 9,999*** | ***50%*** |
| ***$10,000 but not over $14,999*** | ***25%*** |
| ***$15,000 but not over $19,999*** | ***15%*** |
| ***$20,000 but not over $24,999*** | ***5%*** |
| ***$25,000 and over*** | ***-0-*** |

Section 645. The provisions of Part VIID of this Act shall apply to taxable years beginning after December 31, 1989.

## PART VIII - NONCODIFIED MATERIAL

Section 646. Whereas, the decision of the Supreme Court of Kentucky in ***Rose v. Council for Better Education, Inc.***, mandates that the General Assembly reform and improve the system of common schools in Kentucky; and

Whereas, the reforms imposed by the court and recommended by the educational task force have vastly expanded educational programs and the state's role in these programs; and

Whereas, with the expansion of educational programs comes an expansion of the costs necessary to pay for such programs; and

Whereas, the Governor has indicated and the General Assembly agrees that state revenues are insufficient to pay for the needed improvements and that an increase in revenues is the only solution to that insufficiency, but is incidental to education reform; and

Whereas, primary state funding for education comes from the General Fund, which is a commingling of revenues from various sources and which is spent for general government purposes as well as for education; and

Whereas, the amount of the tax increases proposed, together with revenues from the General Fund will both be necessary to fund the educational programs contained in this legislation:

The General Assembly finds and declares that the revenue measures contained in this Act are a necessary incident to the education reform provisions of this Act.

Section 647. Because of the extraordinary complexity of this legislation, its special importance to the Commonwealth and her people, and the need for accuracy and consistency in its interrelationships, the General Assembly expressly authorizes and directs the Reviser of Statutes, in addition to and without derogation of his existing authority under KRS 7.140 and 7.136, to make all technical changes and corrections in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act, including the following:

(1) Changing any existing or newly created references to public officers, boards, or agencies whose duties or authority have been altered or abolished by this Act to the comparable public officer, board, or agency that has been assigned those duties or authority by the terms of this Act;

(2) Where the context makes clear the words to be supplied, inserting any omitted words or phrases within newly created language, when, in his best judgment, this can be done without altering the sense, meaning, or effect of the particular section of this Act;

(3) Changing existing or newly-created statutory cross-references to reflect renumbered sections or subdivisions thereof, or, in the case of repealed sections, to indicate analogous newly-created sections or subdivisions thereof, when, in his best judgment, the substance of the newly-created section is comparable to that of the section repealed; and

(4) Making any other statutory additions, deletions, or modifications which are necessary in his best judgment to effect the intent of this Act.

Section 648. The provisions of KRS 446.260 notwithstanding,

(1) If any provision of this Act repeals and reenacts a statute section amended by another act adopted at this 1990 regular session of the General Assembly, the repeal and reenactment by this Act shall have no effect.

(2) If any provision of this Act amends or repeals and reenacts a statute section repealed by another act adopted at this 1990 regular session of the General Assembly prior to the adoption of this Act, the prior repeal shall have no effect.

Section 649. The modification of KRS 12.020, I.7., contained in Section 53 of this Act shall be effective July 1, 1991; the other amendments to KRS 12.020 contained in Section 53 shall have the regular effective date of this Act.

Section 650. Whereas, to facilitate administrative planning and to insure receipt of budgeted revenue, an emergency is declared to exist, and Sections 613 to 645 of this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 169, line 21 after the "." by adding the following:

"***However, this shall not apply to a board member holding office on the effective date of this Act whose relative was not initially hired by the district during the tenure of the board member.***"

On page 184, line 8 after the word "***district***" by adding the following:

"***, unless on the effective date of this Act, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member***"

The Committee Amendment No. 2 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 122, after line 11, insert the following:

"***(4) The local school district shall enter into a written contract of employment with public school employees for whom certification is not required as a basis of employment and who have successfully served a twelve (12) month probationary period exclusive of paid and unpaid leave, as evidenced by a written evaluation conducted under board policies. The contract shall not be terminated by the local school district, except for insubordination, including but not limited to, violation of the school laws of the state or administrative regulations adopted by the State Board for Elementary and Secondary Education or lawful rules and regulations established by the local board of education for the operation of schools, immoral conduct unbecoming a school employee, physical or mental disability, inefficiency, incompetency, neglect of duty, abandonment of position or failure to maintain licensing or other standards required by the state or federal government after the employee has been given written notice of the charges for termination and received a due process hearing before a tribunal appointed by the chief state school officer, no less than twenty (20) days after service of the charges. The tribunal shall be appointed by the chief state school officer and shall consist of three (3) members: one (1) classified employee, one (1) supervisor of classified employees and one (1) lay person, none of whom reside in the district to conduct an impartial hearing within the district. Charges at the hearing shall be supported by documents prepared by appropriate supervisory personnel and the employee shall have benefit of the chief state school officer's authority for the purpose of obtaining documents, physical evidence and witnesses in preparation for the hearing and for evidence at the hearing. The employee may be represented by an attorney; and, if requested, the local board of education shall furnish to the employee or his attorney evidence and testimony of witnesses to be used at the hearing in support of the charges.***

***(5) The hearing before the tribunal may be public or private, at the employee's option. The tribunal may, after hearing the evidence, dismiss some or all of the charges, issue a sanction less severe than termination of employment or terminate the contract of employment. The tribunal shall prepare a stenographic record of the hearing and shall issue written findings, conclusions, and decisions within five (5) days after the close of the hearing. The employee may appeal the tribunal's action by filing a complaint within thirty (30) days after receiving the tribunal's decision, in the Circuit Court of the county where the school district is located. The complaint shall be an original action and either party may introduce the transcript of the hearing before the tribunal, or portions thereof as evidence. If a transcript is introduced, the local board of education shall prepare a copy of the transcript at no cost to the employee. Either party may appeal the judgment of the Circuit Court to the Court of Appeals as provided by law.***

***(6) A superintendent may lay off a classified employee when he deems it necessary by reason of shortage of funds or work, abolishment of a position, changes required by state law or the State Board for Elementary and Secondary Education regulations or other material change in duties or organizations.***

***(7) A classified employee with more than twelve (12) months employment in that district, who is laid off may appeal pursuant to subsection (5) of this section.***"

The Committee Amendment No. 3 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 265, line 17, by deleting "***fifteen percent (15%)***" and inserting in lieu thereof "***thirty percent (30%)***".

The Committee Amendment No. 4 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 122, line 2, after the word "***person***" by inserting the following:

"***who is initially hired after the effective date of this Act***"

On page 122, between lines 11 and 12, by inserting the following:

"***(4) Local school districts shall encourage classified employees who were initially hired before the effective date of this Act and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.***"

The Committee Amendment No. 5 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 85, line 7, after the "." by deleting the word "***The***" and all new language on lines 8 through 13; and

On page 86, line 9, after the "." by deleting the rest of the new language on that line and all language on lines 10, 11, and 12.

The Committee Amendment No. 6 to **HB 940** is as follows:

Amend printed copy of **HB 940** by deleting Sections 19 through 24 in their entirety, beginning on page 50, line 18, through page 57, line 16, and insert the following in lieu thereof:

"SECTION 19. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***The General Assembly of the Commonwealth of Kentucky recognizes and supports the emerging application of modern technology in the plan to support education excellence in Kentucky. The timely development of a comprehensive long-range technology strategic plan will enhance educational opportunities for all citizens of Kentucky and benefit students in a wide variety of educational programs from the primary grades through high school, higher education, vocational training, and adult education. Properly developed and applied technology has the unlimited potential to dramatically improve student learning, school administration, teaching methods, curriculum development, and teacher training. Technology is a vital component to insure an effective and efficient school system and will provide equal access to educational opportunities for all citizens throughout the Commonwealth.***

SECTION 20. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created, effective July 1, 1990, the Super Technology Board which shall be an advisory body attached to the Legislative Research Commission for administrative purposes and which shall develop a long-range technology strategic plan. The Legislative Research Commission shall provide financial and staff support.***

***(2) The board shall be composed of five (5) members, one (1) of whom shall be designated as chairman, and shall be appointed by the Legislative Research Commission. Members shall be nationally recognized leaders from within the fields of technology research, education, science, computers, or communications, with special skills in computer technology, computerized educational learning, data transmission or telecommunications. A majority of the members at any meeting shall constitute a quorum to conduct official business. Members shall receive no compensation for their service, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.***

***(3) The long-range technical strategic plan shall comprehensively evaluate the education environment in Kentucky and the potential during the decade of the 1990's for immediate, intermediate, and long-range applications of advanced technology within the new state education system being implemented by this Act. The plan shall include a recommendation for implementation of a statewide blueprint that will most efficiently and effectively adopt and utilize technology in Kentucky's schools, considering, but not being limited to, the following factors:***

*(a) Computers and computer systems;*

*(b) Fiber optics;*

*(c) Satellite communications;*

*(d) Microwave communications;*

*(e) Cable and other television systems;*

*(f) Telecommunications;*

*(g) Video and film applications;*

*(h) Software and hardware systems;*

*(i) Imaging;*

*(j) Auxiliary equipment;*

*(k) Long distance learning;*

*(l) Kentucky Educational Television Star Channel;*

*(m) Classroom instruction;*

*(n) Curriculum delivery;*

*(o) Management systems related to required school programs;*

*(p) Staff development;*

*(q) Facility readiness; and*

*(r) Recommended methods by which the state could enter into cooperative ventures with private enterprise to develop the technology and systems necessary to assist in implementing the plan.*

*(4) The board may exercise wide discretion in recommending a course of action to implement the long-range strategic plan and shall include cost estimates to support any recommendation the board may include in its report. The board shall complete its work and issue a final report by January 1, 1991. Copies of the final report shall be submitted to the Governor, the Legislative Research Commission, and the chief state school officer. The board shall be abolished following completion and acceptance of its final report by the Legislative Research Commission unless extended by the Commission.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) The General Assembly estimates that the initial cost of implementing a technology strategic plan is two hundred million dollars ($200,000,000) and that full implementation of the plan shall be completed within four (4) to six (6) years after the effective date of this Act. Funding to finance the technology strategic plan shall be primarily provided by the state general fund and may be supplemented with federal funds, local funds, and grants or gifts from private sources. Private industry shall be strongly encouraged to provide technical assistance and financial support to accelerate the acquisition of equipment required by the plan through innovative procurement procedures in compliance with the provisions of KRS Chapter 45A.*

*(2) The General Assembly envisions that the technical strategic plan for Kentucky schools will provide a networked computerized workstation in every classroom in Kentucky with integrated audio/visual equipment for general classroom instruction. This classroom instruction network will be complemented with computer laboratories or workstations for individualized student instruction, giving special emphasis to teaching remedial students.*

*(3) The General Assembly envisions that the technology strategic plan shall also include a fully networked management information system which interconnects all classrooms, administrative offices in the schools and school districts, regional service centers, and the centralized computer system in Frankfort. This management information system shall provide current, accurate, and accessible information relating to management, finance, operations, instruction, and pupil programs which are created or amended by this Act. Special emphasis shall be placed on programs relating to the six (6) outcome goals for students described in Section 3 of this Act. The network system shall include information access capability on a need to know basis for the Office of Education Accountability in the Legislative Research Commission, the Department of Education, regional service offices, local school districts, and local schools.*

*(4) During the 1990-92 biennium, subject to concurrence of the Technology Super Board, the following priorities are established:*

*(a) The networked information system created in subsection (3) of this section, shall be operational in all local school districts, central offices, regional service centers, and the centralized computer center in Frankfort by July 1, 1991. This portion of the networked information system shall be able to support the fully networked system envisioned by subsections (2) and (3) of this section;*

*(b) Building upon this completed portion of the networked information system, the classroom instruction network created by subsection (2) of this section shall be operational in the literacy laboratories in all elementary schools in the state by the school year beginning July 1, 1991;*

*(c) Any funds which have been appropriated by the General Assembly to finance the technology strategic plan during the 1990-92 biennium which have not been expended or legally committed to implement the programs required by (4) (a) and (4) (b) of this section, may only be expended by the chief state school officer to accelerate completion of this networked system in all classrooms and administrative offices in the state; and*

*(d) The Kentucky Educational Television Star Channel, as directed by the State Board for Elementary and Secondary Education, shall be integrated into the technology strategic plan and shall be adequately funded to assist in its mission to support education excellence in Kentucky.*

*(5) During the 1990-92 biennium, the Department of Education shall be organized to begin the process of initiating the preliminary stages of plan implementation, and the chief state school officer shall, at the time he is appointed, take appropriate action to insure that the Department of Education is properly staffed to effectively and efficiently implement the technology strategic plan mandated by this Act. The chief state school officer shall recommend to the 1992 regular session of the General Assembly those steps which are necessary to substantially complete implementation of the technology strategic plan during the 1992-94 biennium. Any remaining portion of the technology strategic plan shall become fully operational during the 1994-96 biennium.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

*(1) There is hereby created, effective September 1, 1990, a Technology Implementation Advisory Board. The advisory board shall be attached to the State Board for Elementary and Secondary Education. The advisory board shall be composed of seven (7) members. Six (6) of the members shall be appointed by the Governor. The head of the organizational unit in the Department of Education who is responsible to the chief state school officer for implementation of technology programs mandated by this Act shall be the other member of the advisory board. The board shall elect its chairman who shall not be the Department of Education representative.*

*(2) The six (6) appointed members of the advisory board shall be professionals with experience and demonstrated skills in technology and the practical application of technology in instruction, school administration, and business management. For the six (6) appointed members, one (1) member shall be selected from each of the following groups:*

*(a) A superintendent of a Kentucky school district;*

*(b) A classroom teacher in a Kentucky school;*

*(c) A teacher or staff member in a vocational education school in Kentucky;*

*(d) A staff member from Kentucky Educational Television;*

*(e) A business representative; and*

*(f) A parent of a student in a Kentucky school.*

*(3) The advisory board shall be responsible for working directly with the organizational unit in the Department of Education responsible for implementation of the technology strategic plan and shall report to the State Board for Elementary and Secondary Education its recommendations relating to:*

*(a) The Department of Education organizational structure to expeditiously, effectively, and efficiently implement the technology strategic plan;*

*(b) A program to implement the technology strategic plan at the school district level to include, but not be limited to, utilization of existing district equipment and data, development of curriculum and technology applications, and improved administrative productivity; and*

***(c) A program to ensure training of administrators, staff, teachers, and technicians to achieve maximum utilization in the proper application of technology through the appointment of staff in the Department of Education who are qualified to conduct on site training and technical assistance to local schools. The state board and the department shall investigate development of a college intern program to assist in this program.***

***(3) The advisory board shall meet as needed and submit quarterly progress reports to the Governor, Legislative Research Commission, State Board for Elementary and Secondary Education, and Department of Information Systems. Board members shall receive no compensation for their service, but shall be reimbursed for all necessary expenses incurred in the performance of their duties.***

SECTION 23. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created, effective July 1, 1990, a permanent subcommittee of the Legislative Research Commission to be known as the technology oversight subcommittee. The subcommittee shall be composed of five (5) members, three (3) of whom shall be members of the House of Representatives and two (2) of whom shall be members of the Senate. The Legislative Research Commission shall appoint the members of the subcommittee from the membership of the General Assembly and shall designate one (1) of the members to serve as chairman. The term of the initial members of the subcommittee shall expire on December 31, 1992. Beginning January 1, 1993, members of the subcommittee shall serve a term of two (2) years. Any vacancy which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.***

***(2) The subcommittee shall meet at any time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090 (2).***

***(3) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090 (4) and (5).***

***(4) The subcommittee shall be responsible to the Legislative Research Commission for ensuring that the technology strategic plan is expeditiously implemented.***

SECTION 24. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

***The State Board for Elementary and Secondary Education shall initiate a program to assist and encourage each certified teacher to purchase a computer for his own personal use. The program shall include, but shall not be limited to, the following:***

***(1) The State Board for Elementary and Secondary Education shall obtain by competitive bidding or negotiation the lowest possible purchase price for personal computers on behalf of all interested teachers.***

***(2) The State Board for Elementary and Secondary Education shall arrange a suitable training program in the use of these computers with the vendor awarded the contract.***

***(3) No teacher shall purchase more than one (1) computer under the provisions of this section during any two (2) year period.***

***(4) No teacher shall sell any computer acquired under this program during the two (2) year period immediately following the date of purchase of the computer without written approval of the State Board for Elementary and Secondary Education. Violation of this provision shall result in loss of the tax credit provided for in subsection (5) of this section and the teacher shall refund to the Revenue Cabinet the amount received as a tax credit with regular interest and a twenty-five percent (25%) penalty.***

***(5) Effective for tax years beginning on or after January 1, 1990, there shall be allowed as a credit against the tax imposed under KRS 141.020, an amount equal to fifty percent (50%) of the purchase price of a computer up to the state contract price for approved computers purchased under the program provided for in subsection (1) of this section, in the taxable year of purchase.***"; and by renumbering the remaining sections accordingly.

The Committee Amendment No. 7 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 43, line 4, after the word "***districts***" by inserting the new language "***and Headstart Programs***"; and

On page 43, line 6, after the word "***Districts***" by inserting the new language "***and Headstart Programs***"; and

On page 43, line 9, after the period "." by inserting the new language "***In designing a local early childhood education program, each district shall work with existing Headstart Programs to avoid duplication of programs and services and to avoid supplanting federal funds.***"; and

On page 46, line 9, after the word "***of***" and before the word "***members***" by deleting the word and number "***fifteen (15)***" and insert in lieu thereof the word and number "***sixteen (16)***"; and

On page 46, line 10, after the word "***The***" and before the word "***members***" by deleting the word and number "***fifteen (15)***" and insert in lieu thereof the word and number "***sixteen (16)***"; and

On page 47, line 7, after the word "***departments***" by deleting the period "***.***" and insert in lieu thereof a semicolon "***;***" and the word "***and***"; and

On page 47, after line 7 and before line 8, by inserting the new language "***(p) Local community action agencies.***"

The Committee Amendment No. 8 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 260, beginning on line 19, after "***(b)***" by deleting all new language through line 25 and inserting in lieu thereof the following:

"***If a board fails to comply with subsection (a) of this section, its members shall be subject to removal from office for willfull neglect of duty pursuant to KRS 156.132.***"

The Committee Amendment No. 9 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 6, line 1 after the period add the following:

"***In developing the formula at least eighty percent (80%) of the value shall be related to the measurement of a student's ability to use basic communication and mathematics, the sciences, the arts, the humanities, and social studies.***"

The Committee Amendment No. 10 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 382, line 12, by deleting all brackets and strikethroughs; and

On page 382, line 14, by placing brackets around and striking through the word "ascertain" and insert in lieu thereof "***determine***"; and

On page 383, line 9, after "***school***" by inserting the following:

"***and the time shall be calculated as part of the actual school work required by KRS 158.060. The pupil shall not be penalized for any school work missed during the specified time***"; and

On page 383, line 15, after the word "given" by inserting the following:

"***and shall take non-credit enrichment courses or participate in educational activities not required in the regular curriculum, and that time shall be calculated as part of the actual school work required by KRS 158.060. Students of different grade levels may be placed into combined classrooms in accordance with maximum class size allotments as described in KRS 157.360***; and

On page 383, line 15, by placing a "[" before ", but"; and

On line 16, by placing a "]" after the word "instruction"; and on lines 15 and 16 by striking through the bracketed material; and

On page 383, line 21, after the "." by inserting the following:

***These courses or activities shall be supervised by certified school personnel and may include but are not limited to the following: study hall, computer instruction, music, art, library, physical education and tutorial assistance.***

The Committee Amendment No. 11 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 64, line 8 after the period insert the following:

"***Kindergarten programs may be operated for less than six (6) hours without state board approval.***";

On page 214, lines 3 and 4 enclose with brackets and strikethrough the following:

"or one-half (1/2) year,"; and

On page 214, line 7 after the word "***program***" insert the following:

*"**and shall be provided at a minimum for one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil**"*.

The Committee Amendment No. 12 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 95, line 10 by deleting "***initial or***";

On page 95, line 12 by deleting "***or applicant***";

On page 95, lines 13 through 15, by deleting "***A newly hired superintendent who is relocating from outside the state to begin his duties after June 30, 1994,***" and in lieu thereof inserting "***A person hired for the first time as superintendent in Kentucky after July 1, 1992,***"

The Committee Amendment No. 13 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 215, line 17, after "teachers" by inserting the following:

"***. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience.***"

The Committee Amendment No. 14 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 435, after line 5, and before line 6, by adding the following:

"Section 252. KRS 162.060 is amended to read as follows:

The ***chief state school officer*** [~~superintendent of public instruction~~] shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and for all additions to or alterations of old buildings. He shall examine or cause to be examined all such plans and specifications and shall approve or disapprove them in accordance with the rules and regulations of the State Board for Elementary and Secondary Education. Plan reviews for conformance with the uniform state building code shall be conducted only by the Department of Housing, Buildings and Construction. No board of education may award a contract for the erection of a new building or contract for an addition to or alteration of an old building until the plan has been approved by the ***chief state school officer*** [~~superintendent of public instruction~~]." and by renumbering the subsequent sections accordingly; and

On page 722, after line 16, and before line 17, by adding the following:

"SECTION 483. KRS 161.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Whenever a teacher or school administrator is functioning in his capacity as an employee of a board of education of a public school system, it shall be unlawful for any person to direct speech or conduct toward the teacher or school administrator when such person knows or should know that the speech or conduct will disrupt or interfere with normal school activities or will nullify or undermine the good order and discipline of the school." and by renumbering the subsequent sections accordingly; and

On page 843, after line 14, and before line 15, by adding the following:

"SECTION 608. KRS 189.540 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The State Board of Education shall adopt administrative regulations to govern the design and operation of all Kentucky school buses. The board shall, with the advice and aid of the Kentucky state police, enforce the administrative regulations governing the operation of all school buses whether owned by a school district or privately contracted. The regulations covering the operation shall by reference be made a part of any contract with a school district. Every school district and private contractor referred to under this subsection shall be subject to those regulations.

(2) Any employee of any school district who violates any of the administrative regulations in any contract executed on behalf of a school district shall be subject to removal from office. Any person operating a school bus under contract with a school district who fails to comply with any of the administrative regulations shall be guilty of breach of contract and the contract shall be canceled after proper notice and a hearing by the responsible officers of such school district." and by renumbering the subsequent sections accordingly; and

On page 848, after line 15, and before line 16, by adding the following:

"158.720. Coordination of local educational improvement plan with master inservice educational plan — Technical assistance by department."; and

On page 848, after line 18, and before line 19, by adding the following:

"158.750. Testing on basic skills — Exemption — Remedial instruction — Supplemental classroom units — Selection of students for remedial instruction."

The Committee Amendment No. 15 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 161, line 26, after the word "districts," by deleting "***located in counties with***";

On page 162, line 1, by deleting all new language;

On page 162, line 2, by deleting all new language and by removing the brackets and strikethroughs from "be elected from";

On page 162, lines 3 through 6 by deleting lines 3 through 6 in their entirety;

On page 166, lines 17 through 26, delete all lines in their entirety;

On page 167, lines 1 through 3, delete in their entirety;

On page 844, after line 23 and before line 24, insert the following:

"SECTION 612. KRS 160.260 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The voting in county districts shall be by divisions. Each voter shall vote for only one (1) candidate. The legally eligible candidate receiving the highest number of votes cast in his division shall be declared elected.

(2) In independent school districts each voter may vote for as many candidates as there are members to be elected, and the number of board members to be elected shall be indicated. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected."; and

Renumber the sections to conform.

The Committee Amendment No. 16 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 2, line 10, by deleting "***reconvene***" and in lieu thereof inserting "***be reconvened by the chairman***"; and

On page 3, line 20, after the period by inserting the following:

"***Members of the council and its committees may receive reimbursement of actual expenses for attending meetings and may be reimbursed for other actual and necessary expenses incurred in the performance of their duties authorized by the council. The expenses shall be paid out of the appropriation for the council.***"; and

On page 4, line 2, after the period by inserting the following:

"***After submitting its final report the council shall cease to exist.***"; and

On page 57, line 2, by deleting "***price***" and in lieu thereof inserting "***prices***" and after "***for***" by inserting "***various***"; and

On page 219, lines 19 and 20 by deleting "***Kentucky Commission on School Finance***" and in lieu thereof inserting "***Office of Education Accountability's Division of School Finance***"; and

On page 848, between lines 15 and 16 by inserting "158.720 Coordination of local educational improvement plan with master inservice educational plan; technical assistance by department"; and

On page 848, between lines 18 and 19 by inserting "158.750 Testing on basic skills; exemption; remedial instruction; supplemental classroom units; selection of students for remedial instruction".

The Committee Amendment No. 17 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 87, line 2, after "divisions of" place brackets around and strike through the word "***accreditation,***";

On page 88, line 1, after "divisions of" insert the word "***accreditation,***";

On page 88, line 2, after the word "research," insert the word "***and***";

On page 88, line 2, after "evaluation" place brackets around and strikethrough "***, and computer services***"; and

On page 88, line 15, after the word "analysis," insert the words "***computer services,***".

The Committee Amendment No. 18 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 1, line 17, delete the line in its entirety; and

On page 2, line 1, delete the line in its entirety; and insert in lieu thereof the following:"

"***(5) Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;***"

The Committee Amendment No. 19 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 35, line 24, after the "." by inserting the following:

"***The teacher representatives on the council shall be elected by a majority of the teachers at the school.***"

The Committee Amendment No. 20 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 37, line 5, after the word "***council.***" insert the following:

"***Requests for transfer shall conform to any employer-employee bargained contract which is in effect.***".

The Committee Amendment No. 21 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 149, after line 4 and before line 5 by inserting the following:

"***(c) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent and shall have the right to file a written rebuttal which shall be attached to the district superintendent's report.***";

On page 196, by inserting after line 1 and before line 2:

"***(2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a written record of teacher performance by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made by a Kentucky distinguished educator under Section 5 of this Act.***";

and by renumbering the following subsections to conform;

On page 207, line 8, by deleting the bracket before the "(1)" and removing the strikethrough from "(1)", and by inserting a bracket before the word "***The***";

On page 208, after line 2 and before line 3 by inserting the following:

"***(2) All personnel actions by the superintendent as described in subsection (1) shall be recorded in the minutes of the local board of education at the next meeting after the action is taken and shall not be effective prior to receipt of written notice of the personnel action by the affected employee from the superintendent.***";

The Committee Amendment No. 22 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 84, line 14, after the word "***board***" by inserting "***, the provisions of KRS 64.640 notwithstanding***".

The Committee Amendment No. 23 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 63, line 1, by inserting "***(1)***" before the word "Twenty"; and

On page 64, after line 16 and before line 17, insert the following:

"***(2) Teachers shall be provided additional time for non-teaching activities. The non-teaching time shall be used to provide teachers opportunities for professional development activities as provided in Section 12 of this Act, instructional planning, school based shared decision making as provided in Section 14 of this Act, curriculum development, and outreach activities involving their students' families and the community.***"

The Committee Amendment No. 24 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 68, line 16, after "***years.***" insert the following:

"***The State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts for the 1990-1991 and 1991-1992 school years for continuing education. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in Section 3 of this Act. The chief state school officer shall recommend to the Division of School Finance of the Office of Education Accountability by June 30, 1991, a method for funding continuing education for these students through the state supported funding program.***".

The Committee Amendment No. 25 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 129, lines 11 and 12 delete all new language.

The Committee Amendment No. 26 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 14, after line 19 and before line 20, insert the following:

"***4. Complete an intensive training program, provided by the Department of Education and approved by the State Board for Elementary and Secondary Education, prior to being assigned to assist a school's staff with implementing its school improvement plan. The training program shall include, but shall not be limited to instruction in the methods of personnel evaluation, school organization, school curriculum and assessment.***"

The Committee Amendment No. 27 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 23, line 21 after the period by inserting the following:

"***The State Board for Elementary and Secondary Education shall promulgate regulations establishing operational performance standards by January 1, 1991. These standards shall become effective on July 1, 1991.***"

The Committee Amendment No. 28 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 40, between lines 15 and 16 by inserting the following:

"***(7) There is hereby established a school council discretionary fund to be administered by the Department of Education and the department shall establish guidelines to be met to qualify for such funds. Each year that school councils are in existence the department shall distribute the funds appropriated to the fund to the schools participating in school-based decision making. The amount of funds received by each participating school shall be determined on a proportionate share basis by considering each participating school's total pupil enrollment. However, schools receiving funds from the Commonwealth school improvement fund under Section 7 of this Act shall not be eligible to participate in this fund.***"

The Committee Amendment No. 29 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 74, line 20, after "(2)" insert the following:

"***At the request of a local school council,***";

On page 74, line 20, delete "***may***" and insert "***superintendent shall***" in lieu thereof; and

On page 75, line 4 after the period insert the following:

"***A local school board that meets the same requirements established for schools in this section may request a waiver of regulations which effect the administration of the district in areas not related to the operation of the school under Section 4 of this Act.***"

The Committee Amendment No. 30 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 41, line 9, after the word "***and***" and before the word "***members***" by deleting the the word and number "***fourteen (14)*** and inserting in lieu thereof the word and number "***sixteen (16)***"; and

On page 41, line 10, after the word "***The***" and before the word "***appointed***" by deleting the word and number "***fourteen (14)*** and inserting in lieu thereof the word and number "***sixteen (16)***"; and

On page 41, line 16, after the new language "***Association,***" by inserting the new language "***the Head Start Director, the Head Start Program,***".

The Committee Amendment No. 31 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 78, line 10, after the period, insert the following:

"***Existing administrative regulations relating to statutes that are repealed and reenacted in this Act and that have not been objected to in the administrative review process as provided for in KRS Chapter 13A shall remain in effect until amended or repealed. Regulations promulgated under newly created or amended statutes in this Act shall be promulgated, reviewed, or amended if necessary and resubmitted to the Legislative Research Commission, prior to December 30, 1990, except for regulations that are to be promulgated at another date in accordance with other provisions of this Act.***"

The Committee Amendment No. 32 to **HB 940** is as follows:

Amend printed copy of **HB 940** by deleting Section 462 in its entirety, beginning on page 705, line 20, through page 707, line 2; and

On page 275, between lines 16 and 17, insert the following:

"Section 118. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic communications services, ***cable television services***, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of electrical energy purchases the electrical energy directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all electrical energy received by the tax rate levied under the provisions of this section.

(3) Gross cost shall be construed in such a way that the consumer shall pay taxes on the same base as that on which a seller who comes within the provisions of subsection (1) of this section is paying."; and

Renumber the following sections to conform.

The Committee Amendment No. 33 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 36, on line 15 by deleting everything after "***(e)***" by deleting all of line 16, and on line 17 by deleting everything before "***The***";

On page 36, line 17 by deleting "***then***";

On page 40, between lines 15 and 16 by inserting the following:

"***(7) The amount of funds which the local district shall make available to the school council for the school shall include the state and local per pupil allotment guaranteed by the Support Education Excellence in Kentucky including the additional amounts allotted based on the special characteristics of the students enrolled in the school after deducting a per pupil amount for debt service, transportation and central office expenses. It shall also include a proportionate share of any local, state or federal funds which are allocated by purpose to serve the students in the school.***"

The Committee Amendment No. 34 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 35, line 10, by deleting "***person***" and in lieu thereof inserting "***classroom teacher***" and by deleting line 12 after "***state***" and deleting all of line 13;

On page 35, between lines 24 and 25 by inserting the following:

"***(b) The teachers receiving the highest number of votes from among the votes cast in an election in which at least a majority of the teachers cast their vote shall serve as the teacher representatives on the council. The teacher representatives shall serve one (1) year terms on the council and may be reelected. The initial election of the teacher representatives shall occur within fifteen (15) days after the election or designation of school based management for that school in accordance with subsection (5) of this section.***

***Thereafter, annual elections for teacher repres90RSHJ 0316 the council shall occur within the last fifteen (15) days of the preceeding school term.''***

and by renumbering the following subsections to conform.

The Committee Amendment No. 35 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 94, after line 14 and before line 15, insert the following:

"***(4) All principals hired prior to the effective date of this Act shall be required to successfully complete the beginning teacher committee training program, pursuant to KRS 161.030(8) by July 1, 1991. All principals hired after the effective date of this Act shall be required to complete the beginning teacher committee training program pursuant to KRS 161.030(8) within one (1) year after their appointment.***".

The Committee Amendment No. 36 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 6, between lines 18 and 19, insert the following:

"***(5) The goals, testing programs other than the interim testing program provided for under subsection (1) of this section, and all outcomes and assessment strategies developed pursuant to this section and Sections 3 and 5 of this Act shall not be implemented until given final approval by the 1992 General Assembly.***"

The Committee Amendment No. 37 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 224, line 3, after the word "the", delete the bracketing;

And strikethroughs around the word "maximum"; and

On page 224, line 5, after "(a)", delete "***Twenty-two (22)***" and

insert in lieu thereof "***Twenty-four (24)***"; and

On page 224, line 6, after "grade)" delete "***with a maximum of twenty-five (25)***"; and

On page 224, line 7, after "(b)", delete "***Twenty-five (25)***" and insert in lieu thereof "***Twenty-eight (28)***"; and

On page 224, line 7, after "(4)" delete "***with a maximum of twenty-eight (28)***"; and

On page 224, line 9, after "(c)" delete "***Twenty-six (26)***" and insert in lieu thereof "***Twenty-nine (29)***"; and

On page 224, line 10, delete "***with a maximum of twenty-nine (29)***"; and

On page 224, line 11, after "(d)", delete "***Twenty-seven (27)***" and insert in lieu thereof "***Thirty-one (31)***"; and

On page 224, on line 12, after "***(12)***" delete "***with a maximum of thirty-one (31)***"; and

On page 225, line 14, after the word "***classes***" insert the following: "***. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.***"; and

On page 232, after line 26, add the following:

"***(12) Except for those schools which have implemented school-based decision making, kindergarten aides shall be provided for each twenty-five (25) full-time equivalent kindergarten students enrolled.***"; and

On page 224, after line 12 and before line 13, insert the following: "***(e) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.***"

The Committee Amendment No. 38 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 39, line 14, after the period "." by adding the following: "***The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.***"

The Committee Amendment No. 39 to **HB 940** is as follows:

Amend printed copy of **HB 940** on page 219, line 15 by changing the word "***disabilities***" to "***exceptionalities***";

On page 462, after line 21, by adding the following:

Section 282. KRS 157.200 is amended to read as follows:

(1) "Exceptional children" means persons under twenty-one (21) years of age who differ in one (1) or more respects from average or normal children in physical, mental, learning, emotional or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit maximally from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. The Department of Education, through regulations endorsed by the State Board for Elementary and Secondary Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section or stipulated in the regulations of the state Department of Education. Requirements of average daily attendance for exceptional classes will be regulated by statute, or in the absence of such direction by departmental regulations endorsed by the State Board for Elementary and Secondary Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:

(a) "Physically handicapped" means any physical disability which makes it impracticable or impossible to benefit from or participate in the normal classroom program;

(b) "Communication disorder" means a disorder in hearing, language, or speech which adversely affects educational performance;

(c) "Mentally handicapped" means retarded intellectual development, as determined by recognized standardized tests and assessment of adaptive behavior, which adversely affects a child's educational performance;

(d) "Specific learning disability" means a disorder in one (1) or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term does not include learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage;

(e) "Emotional disturbance (behavior disorder)" means a condition in which a variety of excessive chronic, deviant, inappropriate, persistent behaviors are exhibited which adversely affect a child's educational performance;

(f) "Multiple handicapped" means a combination of two or moremoderate to profound handicaps which produce serious learning, developmental, or behavioral/emotional problems. These handicaps prohibit or seriously limit progress in a regular or special education program designed to accommodate children with a single handicap.

***(g) "Exceptional Student" means a student identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.***

(2) "Special education" means specially designed instruction to meet the unique needs of a handicapped child.

(3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and approved according to regulations promulgated by the State Board for Elementary and Secondary Education.

(4) "Related services" means such developmental, corrective and other supportive services as are required to assist a handicapped child to benefit from special education, and may include, but are not limited to, psychological services, physical and occupational therapy, physical education, identification and assessment of disabilities, counseling services and medical services for diagnostic or evaluation purposes."

By renumbering all subsequent sections accordingly.

On page 631, beginning on line 16, by deleting Section 376 in its entirety, and by renumbering subsequent sections accordingly.

The Committee on Rules reported **HB 80, HB 184, HB 199, HB 552, HB 620, HB 621, HB 705, HB 747, HB 748, HB 766, HB 778, HB 795, HB 801, HB 842, HB 845, HB 860, HB 868, HB 893,**

**HB 915, HJR 60, HCR 155, HCR 161** and **HJR 185** have been posted for passage in Orders of the Day, March 19, 1990.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 19, 1990: **HB 802, HB 867**.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 881**.

## Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 918, SB 99**.

State Government: **SB 45, SJR 110**.

Cities: **HCR 205**.

Appropriations and Revenue: **SB 313**.

Health and Welfare: **SB 326, SB 347**.

State Government: **SB 33, SB 89, SB 90, SB 91, SB 92, SB 95, SB 96, SB 97, SB 112, SB 314, SB 310, SCR 71**.

Transportation: **SJR 13, SJR 85, SB 158, SB 306, SB 309, HCR 207**.

Elections and Constitutional Amendments: **SB 39, SB 209**.

State Government: **HB 759**.

Energy: **SB 332**.

## Announcements

The Clerk announced the filing of the following Floor Amendments:

Floor Title Amendment to **SCR 73**, by Representative Priddy:

Amend printed copy of **SCR 73/GA Copy/TITLE** on page 1, delete the title and insert in lieu thereof: "A CONCURRENT RESOLUTION directing the study of federal initiatives and other issues having potential effects on Kentucky."

Floor Amendment No. 1 to the House Committee Substitute to **SB 173**, by Representative Geveden:

Amend printed copy of **SB 173/HCS** on page 11, lines 16 through 20, to delete in their entirety and to insert in lieu thereof the following:

"***(8) When a ward attains age eighteen (18), the guardian, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the ward as soon as possible, unless:***

***(a) The ward has been determined to be disabled or partially disabled under KRS 387.500 to 387.770, in which event the ward's funds and properties shall be paid over and distributed to the guardian, limited guardian, conservator or limited conservator appointed pursuant to KRS 387.500 to 387.770; or***

***(b) The guardian has reason to believe that the ward is disabled or partially disabled as defined in KRS 387.510, in which event, the guardian shall institute a proceeding for appointment of a guardian, limited guardian, conservator or limited conservator pursuant to KRS 387.500 to 387.770.***"; and

On page 15, lines 19 through 25, to delete in their entirety and to insert in lieu thereof the following:

"(5) If the ***District*** Court fails to take a bond, or accepts ***inadequate*** [~~persons as surety as do not satisfy it of their sufficiency~~] surety ***on the bond, or fails to require the guardian or conservator to maintain adequate surety on the bond,*** the judge [~~so~~] in default and ***the judge's*** [~~his~~] sureties shall be jointly and severally liable to the ward for any damage ***the ward*** [~~he~~] may sustain thereby***, including reasonable attorney's fees and costs incurred in collecting damages.***"

Floor Amendment No. 1 to **HB 766**, by Representative Cyrus:

Amend printed copy of **HB 766** on page 7, after line 13, by inserting the following language:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

***(1) The Transportation Cabinet shall, upon receipt of the written recommendation of the court in which any person has been convicted of a traffic violation under KRS Chapter 186, 189 or 189A, causing the suspension or revocation of his operator's license, issue an occupational operator's license to such person.***

***(2) No court shall recommend an occupational license unless the following evidence is established by the applicant:***

***(a) The applicant has demonstrated a need to operate a motor vehicle as an essential part of his livelihood, family obligations or both;***

***(b) The refusal to issue an occupational license would result in undue hardship to the person or his family;***

***(c) The place of employment and scheduled work hours of the applicant;***

***(d) The county or counties where the person needs to operate a motor vehicle; and***

***(e) The person is currently enrolled or has successfully completed rehabilitative training or aid for those violations which caused the suspension or revocation.***

***(3) The court shall inform the person or organization providing the training or aid that the holder of an occupational operator's license is required to receive training. If the holder of the license does not complete or fails to attend the training program, the person or organization shall immediately inform the cabinet, and the occupational operator's license shall be revoked.***

***(4) An occupational operator's license shall be limited in use to the operation of a motor vehicle for the purposes of commuting to work and one (1) hour before and after the established working hours and to receive the training or aid set forth in subsection (2)(e) of this section and one (1) hour before and after the scheduled rehabilitative training classes.***

***(5) An occupational operator's license shall expire one (1) year from the date of issue and shall not be renewable, except that if the suspension or revocation period exceeds one (1) year, the person may reapply to the cabinet upon expiration of the license.***

***(6) A person shall be eligible for only one (1) occupational operator's license during his lifetime, except that it may be renewed on a continuing basis for the term of the revocation or suspension, if such is for a period exceeding one (1) year.***

***(7) Applicants for an occupational driver's license shall pay to the circuit clerk upon its issuance or renewal a fee of two hundred fifty dollars ($250).***

***(8) Any holder of an occupational operator's license who violates the restrictions or conditions of his license or is convicted of an offense which would cause suspension or revocation of a regular operator's license or convicted of an offense which would result in the assessment of three (3) or more points against his driving record shall immediately have his occupational operator's license revoked and shall be fined five hundred dollars ($500).***"

On page 7, line 14, by renumbering "Section 5." to read "Section 6."

Floor Amendment No. 1 to **HCR 166**, by Representative Blevins:

Amend printed copy of **HCR 166** on page 1, line 2, by deleting the following: "fifteen (15)" and inserting in lieu thereof the following: "sixteen (16)"; and

On page 2, line 5, after the comma ",", by inserting the following: "one (1) officer from a safety and security department of a public institution of higher education,".

Floor Amendment No. 1 to **HB 751**, by Representative B. Richardson:

Amend printed copy of **HB 751** on page 21, line 13, after the word "***Act***" by inserting the words "***, except as prescribed in subsection (11) of this Section***".

On page 21, line 19, after the word "***allocated***" by deleting the words "***for the benefit of the***" and by inserting in lieu thereof "***during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the General Fund from issuance of***".

On page 21, line 20, by deleting the words "***circuit clerk who issues***".

On page 21, line 22, after the word "***allocated***" by deleting the words "***for the benefit of the circuit clerk who issues***" and by inserting in lieu thereof "***during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the General Fund from issuance of***".

Floor Amendment No. 2 to **HB 751**, by Representative Cline:

Amend printed copy of **HB 751** on page 32, line 1, after the "." by inserting the following language: "***Regularly employed shall include any employment time lost do to illness, employment layoff, and other considerations which may have contributed to irregular employment over the last five (5) years.***"

Floor Amendment No. 6 to **HB 146**, by Representative Morris:

Amend printed copy of **HB 146** on page 1, line 4 by deleting "***Appropriations and Revenue***" and inserting in lieu thereof "***Banking and Insurance***".

On page 1, line 7 by deleting "***, so long as the cumulative outstanding***".

On page 1, by deleting lines 8 and 9 in their entirety.

On page 1, line 10, by deleting "***($1,125,000,000), in order***".

On page 1, line 10 by deleting the bracket and strikethroughs.

On page 1, line 11 by deleting the bracket and strikethroughs.

On page 1, line 17 by inserting after "." the following:

"***Nothing in this Act shall exempt Kentucky Housing Corporation bond issues from review by the Capital Project and Bond Oversight Committee in accordance with the provisions of KRS 45.810. No periodic adjustment in bond authorization made by the General Assembly after the effective date of this Act shall be construed as an increase in the bond issue cap of seven hundred million dollars ($700,000,000) in this subsection.***".

On page 1 by deleting the bracket and strikethroughs on line 18.

On page 1, line 18 after "to" by inserting "***issue the remainder of the total issuance amount approved by the Program Review and Investigations Committee as authorized by this section in 1982***".

On page 1, line 19 by inserting "[" in front of "~~provide~~".

On page 2, line 6 by removing the strikethrough on the period and inserting "]" before the period.

On page 2, line 7 by deleting the strikethroughs and "]" on "(3)".

On page 2, line 7 by inserting before "In" the following:

"***The corporation is authorized upon the effective date of this Act to issue an additional one hundred million dollars ($100,000,000) in bonds of the corporation during the two (2) year period beginning with the effective date of this Act. This temporary authorization shall be used by the corporation exclusively for lower and moderate income home loans.***

***(4)***"

On page 2, line 18 by deleting "***(3)***" and inserting in lieu thereof "***(5)***".

On page 4, line 8 by deleting "***(4)***" and inserting in lieu thereof "***(6)***".

On page 4, line 15 by deleting "***(5)***" and inserting in lieu thereof "***(7)***".

On page 4, line 23 by deleting "***(6)***".

On page 4, line 23 by deleting "]" and striking through all of the words on the line.

On page 4, by striking through everything on lines 24, 25, and 26.

On page 4, line 26 by inserting "]" after the period.

On page 5, line 1, by deleting "***(7)***" and removing the brackets and strikethroughs on "(8)".

Floor Amendment No. 1 to **SB 237**, by Representative Turner:

Amend printed copy of GA Copy of **SB 237** on page 11, after line 13, by inserting the following language:

"Section 5. KRS 198B.050 is amended to read as follows:

(1) Within one (1) year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky state plumbing code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.

(3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators,International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) Provide uniform standards and requirements for construction and construction materials;

(b) To the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies;

(c) Protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the continuing review of, and the board shall adopt when deemed justified to fulfill the purposes of this chapter, new materials, technologies, and techniques in the building industry. The board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said board by this chapter.

(6) The board shall monitor the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) If the board determines that an agency is not enforcing the provisions of the uniform state building code, it shall direct the department to determine where deficiencies exist. The department shall require the local government to correct the deficiencies within sixty (60) days and report to the department its method of correcting the deficiencies.

(8) If the local government fails to correct the deficiencies, the department shall recommend to the board that the department be permitted to preempt the local program as provided for in KRS 198B.060(4).

(9) The board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

***(10) The board shall promulgate administrative regulations to require that parking spaces being provided for disabled or handicapped persons shall have accessibility in at least one (1) parking space for use of a wheelchair lift which is mounted on a motor vehicle.***"

Floor Amendment No. 1 to **HB 64**, by Representative Burch:

Amend printed copy of **HB 64** on page 9, line 8, by inserting after the word "***birth***" the following words "***for use pursuant to KRS 211.645 and 211.647***";

And on page 20, lines 13 and 14, by deleting the words "***or as provided by regulation***";

And on page 31, line 6, by adding after the words "***involved.***" the following new sentence "***The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.***".

The Clerk announced the following meetings:

The Committee on Education, today at 1:00 p.m.

The Committee on Elections and Constitutional Amendments, March 19, 1990 at 12:00 p.m.

The Committee on State Government, today at 12:45 p.m.

## Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Monday, March 19, 1990. Agreed.

The motion that the House adjourn until 2:00 p.m., Monday, March 19, 1990 was adopted by voice vote.